



# भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY

सं. 28]  
No. 28]

नई दिल्ली, शनिवार, जुलाई 14, 1990/आषाढ़ 23, 1912  
NEW DELHI, SATURDAY, JULY 14, 1990/ASADHA 23, 1912

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a  
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-Section (ii)

(एक संज्ञा को छोड़ कर) भारत सरकार के मंत्रालयों अधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India (other than  
the Ministry of Defence)

वित्त मंत्रालय  
(आर्थिक कार्य विभाग)  
(बैंकिंग प्रभाग)

नई दिल्ली, 22 जून, 1990

का.आ. 1818—बैंककारी विनियमन अधिनियम, 1949 (1949 का  
10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय  
सरकार, भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा घोषणा करती  
है कि उक्त अधिनियम की धारा 19 की उपधारा (2) के उपबन्ध 1  
अनुसार, 1992 तक की अवधि के लिए यूनाइटेड बैंक आफ इंडिया, कलकत्ता  
पर उक्त सीमा तक लागू नहीं होंगे जहाँ तक उनका संबंध गिरवीदार  
(प्रीन) के रूप में प्रसार हावड़ा फ्लोर फ्लूइड लिमिटेड कलकत्ता की  
मेयर पूर्वा से उनकी 30 प्रतिशत से अधिक की शेयरधारिता से है।

[संख्या 15/9/88-बी.ओ. III]

MINISTRY OF FINANCE  
(Department of Economic Affairs)  
(Banking Division)

New Delhi, the 22nd June, 1990

S.O. 1818.—In exercise of the powers conferred by section  
53 of the Banking Regulation Act, 1949 (10 of 1949) the  
Central Government on the recommendations of the Reserve  
Bank of India hereby declares that the provisions of sub-

section 2 of section 19 of the said Act shall not apply to  
the United Bank of India, Calcutta for a period upto the  
1st July, 1992 in respect of its holding of shares in excess  
of 30 per cent of the share capital of M/s. Howrah Flour  
Mills Limited, Calcutta as pledgee.

[No. 15/9/88-B.O.III]

नई दिल्ली, 28 जून, 1990

का.आ. 1819—बैंककारी विनियमन अधिनियम, 1949 (1949 का  
10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार  
भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा यह घोषणा करती है  
उक्त अधिनियम की तृतीय अनुसूची में फार्म "क" के साथ संलग्न दिव्यणी  
(घ) के उपबन्ध निम्नलिखित बैंकों पर जहाँ तक उनका सम्बन्ध 31  
मार्च, 1990 को उनको तुलनपत्रों से है, लागू नहीं होंगे:

1. व. कैपिटल सीरियन बैंक लि.
2. आंध्रा बैंक

[संख्या: 15/4/90-बी.ओ.-III]

प्राणनाथ, अवर सचिव

New Delhi, the 26th June, 1990

S.O. 1819.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of Note (f) appended to the Form 'A' in the Third Schedule to the said Act shall not apply to the following banks, namely:—

1. The Catholic Syrian Bank Limited.
2. Andhra Bank.

in respect of their balance sheet as at the end of 31st day of March, 1990.

[No. 15/4/90-BO.III]

PRAN NATH, Under Secy.

उद्योग मंत्रालय

(कम्पनी कार्य विभाग)

नई दिल्ली, 27 जून, 1990

का.आ. 1820.—एकानुसार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उपधारा (3) के अनुसरण में केन्द्रीय सरकार एवम्प्रायः श्री. कृ. स्मर लि. द्वारा पंजीकृत कार्यालय कपूरी बिल्डिंग, जमशेदजी टाटा रोड, बम्बई-400020 में है, के पंजीकरण के निरन्तरिकरण को अधिवृत्ति करने हैं क्योंकि उक्त उपक्रम ऐसे उपक्रमों में से है जिन पर उक्त अधिनियम के भाग "क" अध्याय-III के उपबन्ध अब लागू नहीं होते हैं (पंजीकरण संख्या 1576/82)

[सं. 16/1/90-एम. 3]

शशि भूषण मिश्र, उप सचिव

## MINISTRY OF INDUSTRY

(Department of Company Affairs)

New Delhi, the 27th June, 1990

S.O. 1820.—In pursuance of sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Blue Star Limited, having its registered office at Kasturi Buildings, Jamshedji Tata Road, Bombay-400020, the said undertaking being undertaking to which the provisions of Part A Chapter III of the said Act no longer apply.

(Registration No. 1576/82)

[No. 16/1/90-M.III]

S. B. SINGH, Dy. Secy.

कल्याण मंत्रालय

(महिला एवं बाल विकास विभाग)

पूर्व-विन्यास अधिनियम 1890 (1890 का 6) के विषय में राष्ट्रीय बाल कोष, नई दिल्ली के विषय में।

नई दिल्ली, 22 जून, 1990

का.आ. 1821.—राष्ट्रीय बाल कोष, नई दिल्ली के प्रबन्ध बोर्ड की सहमति से एवं उनके आदेश पर पूर्व विन्यास अधिनियम 1890 (1890 का 6) के खण्ड 10(2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एवम्प्रायः निदेश देती है कि नीचे दिए विवरण के अनुसार 45,00,000 रुपये (पैंतालीस लाख रुपये मात्र) की राशि का निष्पत्ती

अवधि उनके सामने लिखी तारीखों को पूरी हो गई हैं, आकषर के सावधिक जमा खाने में पांच वर्ष के लिए पुनः निवेश किया जाए:—

क्रम सं.	राशि	लिखित निवेश की तारीख	मियाद पूरी होने की तारीख
1.	5,00,000 रु.	16-2-85	16-2-90
2.	5,00,000 रु.	21-2-85	21-2-90
3.	25,00,000 रु.	20-3-85	20-3-90
4.	10,00,000 रु.	22-5-85	22-5-90

उपरोक्त खाना भारत के पूर्व विन्यास कोषाध्यक्ष के नाम होगा और इस धनराशि को बड़ा राष्ट्रीय बाल कोष, नई दिल्ली के प्रशासन के लिए उस योजना के अनुसार उपयोग में लायेगे जो भारत सरकार के तत्कालीन समाज कल्याण विभाग की दिनांक 2 मार्च, 1979 की समय-समय पर यथामंशोधित अधिसूचना सं. का.आ. 120(ई) के साथ प्रकाशित की गई थी।

[सं. 2-1/89-सीडी-3]

गुरमेल राम सुमन, जवर सचिव

## MINISTRY OF WELFARE

(Department of Women &amp; Child Development)

In the matter of the Charitable Endowments Act, 1890  
(6 of 1890)

In the matter of the National Children's Fund

New Delhi, the 22nd June, 1990

S.O. 1821.—On the application made by and with the concurrence of the Board of Management of the National Children's Fund, New Delhi, as in exercise of the powers conferred by Section 10(2) of the Charitable Endowments Act, 1890 (6 of 1890), the Central Government do hereby order that a sum of Rs. 45,00,000 (Rupees forty five lakh only) as per particulars given below, maturing on the dates mentioned against each be re-invested in 5 years Post Office Time Deposit Account:

S. No.	Amount	Date of previous investment	Date of maturity
1.	5,00,000	16-2-85	16-2-90
2.	5,00,000	21-2-85	21-2-90
3.	25,00,000	30-3-85	30-3-90
4.	10,00,000	22-5-85	22-5-90

The above account shall vest in the Treasurer of Charitable Endowments of India to be held by him for being applied in accordance with the scheme for the administration of the National Children's Fund, New Delhi, published with the notification of the Government of India in the then Department of Social Welfare Nos. S.O. 120(E) dated the 2nd March, 1979 as amended from time to time.

[No. 2-1/89-CD-III]

G. R. SUMMAN, Under Secy.

वायु विमानन मंत्रालय

नई दिल्ली, 15 जून, 1990

नई दिल्ली, 22 जून, 1990

का.आ. सं. 1823.—भारत अन्तर्राष्ट्रीय विमानतन्त्र प्राधिकरण अधिनियम 1971 (1971 का 43) की धारा 3 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, श्री वी.के. माथुर को, जो इस समय मायुति उद्योग लिमिटेड में निदेशक (परियोजना और उत्पादन) के रूप में कार्य कर रहे हैं, भारत अन्तर्राष्ट्रीय विमानतन्त्र प्राधिकरण में परब्रह्म करने की तारीख से तीन वर्षों की अवधि के लिए 8500-200-9500 रुपए के अनुसूची "ख" के वेतनमान में अध्यक्ष के रूप में नियुक्त करती है।

[एवी-24020/9/89-एफ(एफ-II)]

आर.एन. दाम, उप सचिव

## MINISTRY OF CIVIL AVIATION

New Delhi, the 22nd June, 1990

S.O. 1822.—In exercise of the powers conferred by sub-section (3) of Section 3 of the International Airports Authority Act, 1971 (43 of 1971), the Central Government hereby appoints Shri V. K. Mathur presently Director (Projects and Production), Maruti Udyog Ltd., as the Chairman in the International Airports Authority of India, in the Schedule 'B' scale of pay of Rs. 8500-200-9500 for a period of three years from the date of his assuming charge of the post.

[AV-24020/9/89-AA.(F.II)]

R. N. DASH, Dy. Secy.

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 1 जून, 1990

का० आ० 1923 —केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग (नियम 10 के उप-नियम (4) के अनुसरण में सूचना और प्रसारण मंत्रालय के निम्नलिखित कार्यालय को, उनके कर्मचारीवृत्त ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, आधुनिक करती है :—

1. क्षेत्रीय प्रचार यूनिट,  
क्षेत्रीय प्रचार निदेशालय,  
दिल्ली-2

[संख्या ई-11011/17/89-हिन्दी]

अगदीन सेठ, निदेशक (राजभाषा)

## MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 1st June, 1990

S.O. 1823.—In pursuance of Sub-rule (4) rule 10 of the Official Languages (Use for official purposes of the Union) Rules, 1976, the Central Government hereby notify the following office of the Ministry of Information and Broadcasting, the Staff where of have acquired the working knowledge of Hindi:—

1. Field Publicity Unit,  
Directorate of Field Publicity,  
Delhi-2.

[No. E-11011/17/89-Hindi]

J. R. SETH, Director (O.L.)

का०आ० 1824 —नवम अधिनियम, 1952 (1952 का 37) के खंड 5 के उपखंड (1) तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 और 8 द्वारा प्रदत्त शक्तियों के प्रयोग तथा इस शासनादेश को दिनांक 24-4-90 को सम्बंधित अधिवृत्तों के अनुक्रम में केन्द्रीय सरकार प्रो. (श्रीमती) इला राव को तत्काल प्रभाव से अपने आदेशों तक केन्द्रीय फिल्म प्रमाणन बोर्ड के अध्यक्ष के रूप में नियुक्त करने के लिए तत्काल प्रभाव से तत्काल प्रभाव के रूप में नियुक्त करती है।

[पा. सं. 814/4/90-एफ (सी)]

टी.एस. आरसु, डेस्क अधिकारी

New Delhi, the 15th June, 1990

S.O. 1824.—In exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) and rules 7 and 8 of the Cinematograph (Certification) Rules 1983 and in continuation of this Ministry's Notification of even number dated 24-4-90 the Central Government is pleased to appoint Prof. (Mrs. Ila Rao, as a member of the Hyderabad advisory panel of the Central Board of Film Certification with immediate effect and until further orders.

[File No. 814/4/90-F(C)]

T. S. ARASU, Desk Officer

श्रम मंत्रालय

नई दिल्ली, 18 जून, 1990

का.आ. 1825.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गिरमिंट कोयला खानों में ईस्टर्न कोयला फील्ड लि. के प्रबन्धन के संदर्भ में निदेशकों और उनके कर्मचारियों के बीच श्रमविवाद में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पत्राट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15 जून, 1990 को प्राप्त हुआ था।

## MINISTRY OF LABOUR

New Delhi, the 18th June, 1990

S.O. 1825.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby published the following award of the Central Government Industrial Tribunal Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Girmint Colliery Eastern Coalfield Ltd. and their workmen, which was received by the Central Government on.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
AT CALCUTTA

Reference No. 9 of 1988

## PARTIES:

Employers in relation to the management of Girmint Colliery of Eastern Coalfields Ltd.

## AND

Their workmen.

## PRESENT:

Mr. Justice Sukumar Chakravarty, Presiding Officer.

## APPEARANCES:

On behalf of employer—Mr. P. Banerjee, Advocate.

On behalf of workmen—None.

STATE : West Bengal.

INDUSTRY : Coal.

## AWARD

By Order No. L-19012(50)/86-D.IV(B) dated 23rd January, 1987, the Government of India, Ministry of Labour, referred the following dispute to this Tribunal for adjudication :

"Whether the Management of Girming Colliery of M/s. E.C. Ltd., P.O. Charanpur, Distt. Burdwan in denying regularisation to Shri Bisheswar Nunia as Loading Clerk and Dwarika Prasad as Traffic from the date they are working in their respective posts is justified? If not, to what relief these workmen are entitled?"

2. When the case is called out today, Mr. P. Banerjee, Advocate appears for the management. Nobody appears for the Union. A petition has however been received from the Union stating therein that the Union is not interested to proceed with the present reference and the Union has prayed for a "No Dispute Award". Mr. Banerjee appearing for the Management has no objection in this regard.

3. On due consideration of the petition of the Union as well as the submission of Mr. Banerjee appearing on behalf of the Management, I find that this Tribunal has no other alternative but to pass a "No Dispute Award" and accordingly a "No Dispute Award" is passed.

This is my Award.  
Dated, Calcutta,  
The 6th June, 1990.

SUKUMAR CHAKRAVARTY, Presiding Officer

[No. L-19012(55)/86-D-IV(B)]

नई दिल्ली, 20 जून, 1990

का.भा. 1826 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व नव काजोरा कोलियरी, मै. ईस्टर्न कोलफील्ड्स लि. के प्रबन्धतन्त्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पचांड को प्रकाशित करती है, जो केन्द्रीय सरकार को 20 जून, 1990 को प्राप्त हुआ था।

New Delhi, the 20th June, 1990

S.O. 1826.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby published the following award of the Central Government Industrial Tribunal Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Navkajora Colliery, Eastern Coalfield Ltd. and their workmen, which was received by the Central Government on 20-6-90.

# CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 90 of 1988

## PARTIES :

Employers in relation to the management of Nav Kajora Colliery of M/s. Eastern Coalfields Limited.

## AND

Their workmen.

## PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

## APPEARANCE :

On behalf of employer—Mr. P. Banerjee, Advocate.  
On behalf of workmen—None.

STATE : West Bengal.

INDUSTRY : Coal.

## AWARD

By Order No. L-19012/140/86-D.IV(B) dated 2nd June, 1987, the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Management of Nav Kajora Colliery of M/s. E.C. Ltd., was justified in superannuating Shri Gobardhan Jadav, CCM Driver without getting his age assessed by the Age Assessment Committee as per JBCCI guidelines? If not, to what relief the workman is entitled?"

2. When the case is called out today, Mr. P. Banerjee, Advocate appears for the management but nobody appears for the workmen in spite of the issue of the registered notice.

3. It appears from the record that the Union has not been appearing inspite of the issue of the registered notice since 23-8-1989. This Tribunal by its order dated 4-4-1990 while getting the direction for issue of the registered notice upon the union gave also direction that if the union or the workmen did not appear in spite of the service of the registered notice then the matter would be taken up in their absence. Similar order was also passed on the previous date namely, 24-1-1990. The registered notice issued in pursuance of the Tribunal's order dated 24-1-1990 was served upon the union and the acknowledgement showing the service was received by this Tribunal. The registered notice issued in pursuance of the Tribunal's order dated 4-4-1990 was issued on 12-4-1990 but the acknowledgement thereto has not yet come back. It however appears that more than a month has elapsed since the issue of this registered notice on 12-4-1990. The registered notice has also not come back. So it can be presumed that the registered notice issued in pursuance of the Tribunal's order dated 4-4-1990 has also been served upon the union. It appears that inspite of the service of the registered notice the union has not been appearing and is not taking any interest to proceed with the reference.

4. In view of what has been stated above, this Tribunal finds that the Union is not interested to proceed with the reference and accordingly this Tribunal has no other alternative but to pass the "No Dispute Award" and accordingly a "No Dispute Award" is passed.

This is my Award.  
Dated, Calcutta,  
The 13th June, 1990.

SUKUMAR CHAKRAVARTY, Presiding Officer

[No. L-19012/140/86-D-IV(B)]

नई दिल्ली, 21 जून, 1990

का.भा. 1827.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सुराकाचर, कोल्यरी आफ मै. एच.ई.सी., लिमिटेड के प्रबन्धतन्त्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण व न्यायालय जबलपुर के पचांड को प्रकाशित करती है, जो केन्द्रीय सरकार को 20 जून, 1990 को प्राप्त हुआ था।

New Delhi, the 21st June, 1990

S.O. 1827.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby published the following award of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Surakachar Colliery of SEC Ltd. and their workmen, which was received by the Central Government.

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(K)183/1987

**PARTIES :**

Employers in relation to the management of Surakachar Colliery of S.E.C. Ltd., P.O. Banki Mongra, District Bilaspur (M.P.)

**AND**

Their workman Shri Shankar Lal S/o Shri Ram Sai, Mechanical Fitter, represented through the General Secretary, C.K.K.M.U., Banki; P.O. Banki Mongra, District Bilaspur (M.P.).

**APPEARANCES :**

For the Union—Shri Rambilash Shobhnath.

For Management—Shri Rajendra Menon, Advocate.

**INDUSTRY :** Coal Mining. **DISTRICT :** Bilaspur (M.P.).

**AWARD**

Dated, June 8, 1990

By Notification No. L-21012/65/87-D.III(B) dated 11th September, 1987 the Central Government in the Ministry of Labour has referred the following dispute to this Tribunal, for adjudication :—

“Whether the transfer of Shri Shankar Lal, S/o Shri Ram Sai, Mechanical Fitter, Helper Category-II of Surakachar Colliery, District as Badli worker is justified? If not, to what relief the workman is entitled for?”

2. In this case both the parties have filed their respective statement of claim and rejoinder. The case was fixed for filing of documents by the management. But instead of filing the documents, the management has filed a Memorandum of settlement dated 8th September, 1989 before this Court on 23rd April, 1990. Thereafter 30th May, 1990 was fixed for verification of settlement. On 30th May, 1990 Shri Rajendra Menon, Counsel for Management and the workman concerned Shri Shankar Lal appeared and verified the settlement, the terms of which are as under :—

1. The case of Shri Shankarlal will be considered favourably and he will be brought to his original category from the date he was kept in badli list.
2. The management will take all care to forward his application to Area Headquarter for materialising his transfer.
3. Shri Shankarlal will not claim for any arrear wages. However, his fixation (that is from the date he was brought to his original category from Badli list) will be done under the rules of notional seniority.
4. Both the workman and the management has agreed to abide to the above settlement and Shri Shankarlal will not raise this dispute through any platform before any court of law in future.
5. Through this settlement the case of Shri Shankarlal is full and final from all corners.

3. From the pleadings of the parties it appears that the dispute between the workman and the management is with regard to the change of Category i.e. from Mechanical Fitter Helper Category-II to a Badli worker and not the transfer of Shri Shankar Lal to any other place as referred to by the Government for adjudication. The management, in its rejoinder in para 1, has also contended that in fact, there is no transfer as stated in the order of reference. It was alleged that because of the operation of standing orders, Shri Shankar Lal, has been put in Badli list because of his own action. There is no transfer as such and therefore the reference being factually incorrect and contrary to the material on record. However, since the dispute between the parties has been settled mutually I need not consider this aspect of the matter.

4. I have considered the terms of settlement incorporated in the settlement dated 8th September, 1989. To my mind, the terms of settlement are fair, just and in the interest of the workman. I, therefore, record my award in terms of the settlement arrived at between the parties and make no order as to costs.

[No. L-21012/65/87-D.III(B)]

V. N. SHUKLA, Presiding Officer

सई दिल्ली, 25 जून, 1990

का.प्र. 1818 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार एस.सी. कंपनी लि., गोदावरीखानी ओपन कास्ट प्रोजेक्ट, करीमनगर जिला के प्रबंधन और उनके कर्मचारियों के बीच, अनुसूच में निश्चित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचसद को प्रकाशित करती है, जो केन्द्रीय सरकार की 22 जून, 1990 के प्राप्त हुआ था

New Delhi, the 25th June, 1990

S.O. 1828.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Industrial Tribunal Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.C. Company Ltd. Godawari Khani open cast project, Karim Nagar District and their workmen, which was received by the Central Government on 22nd June, 1990.

BEFORE THE INDUSTRIAL TRIBUNAL, HYDERABAD  
PRESENT :

Sri K. Taranadh, B.Co., B.L., Industrial Tribunal.  
Dated : 11th June, 1990

Industrial Dispute No. 89 of 1989

**BETWEEN**

The Workmen of S.C. Company Limited,  
Godavarikhani, Open Cast Project,  
Karimnagar District (A.P.).

**AND**

The Management of S.C. Company Limited,  
Godavarikhani, Open Cast Project,  
Karimnagar District (A.P.).

**APPEARANCES :**

None—for the workmen.

Sri K. Srinivasa Murty and Miss. G. Sudha, Advocates—  
for the Management.

**AWARD**

Government of India, Ministry of Labour, New Delhi, by its order No. L-22011(112)/82-D.III(B) Pt., dated 6/7th December, 1989 referred to this Industrial Tribunal, Hyderabad the Industrial Dispute existing between the employers in relation to the Management of Singareni Collieries Company Limited, Godavarikhani, Open Cast Project and their workmen for adjudication under Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Act XIV of 1947) with the following schedule, and with a direction to submit the award within a period of 3 months.

**THE SCHEDULE**

“Whether the action of the Management of Singareni Collieries Co. Ltd., Godavari Khani, Open Cast Project in not considering Sri P. Krishnan, Fitter, RG Workshop for promotion to Cat. VI is justified? If not, to what relief the workman concerned is entitled?”

Soon after the receipt of the Government Order, it was registered as Industrial Dispute No. 89 of 1989 and notices issued parties with a direction to the workmen namely the Secretary, Andhra Pradesh Colliery Mazdoor Sangh, P.O. Godavari Khani-505211 Karimnagar District (A.P.) to file the claims statement on or before 11th January, 1990 while serving copy of it on the Management. Notice of this Tribunal is acknowledged by parties.

On 11th January, 1990 when the dispute is called on the Bench no claims statement is filed by the workmen. Both parties called absent and the dispute was adjourned to 3rd February, 1990 for filing the Claims Statement. On 3rd February, 1990 again the parties were called absent and there was no representation on their behalf. The dispute was adjourned to 26th February, 1990 for claims statement of workmen and vakalat of the Management. On 26th February, 1990 again the parties called absent and the dispute was adjourned to 26th March, 1990, 18th April, 1990, 10th May, 1990 and 11th June, 1990. On 11th June, 1990 also no claims statement is filed by the workmen and the counsel for the Management was present. The dispute is reserved for Award.

I have carefully perused the day to day proceedings. This dispute is espoused by the Union and if the Union is not evincing any interest in prosecuting this dispute, this Tribunal cannot do anything except to pass an Award on the material papers available. There is only the Government of India Order which contains the Schedule. The schedule is clear. It relates to the relief to be granted to the workman Sri P. Krishna, Fitter RG.IV Workshop for promotion to Cat. V. If a promotion is to be given by the Management to the workmen a duty is cast on the workman to prove his case. No claims statement is filed and no counter is filed by the management. In the absence of any material placed before this Tribunal, I hold that the workman is not entitled to any relief. The reference is terminated.

Dictated to the Steno-typist, transcribed by him corrected by me and given under my hand and the Seal of this Tribunal, this the 11th day of June, 1990.

Sd/- Illegible

Industrial Tribunal.

[No. L-22011(112)/82-D.III(B)]

Appendix of Evidence

NIL

Sd/- Illegible

Industrial Tribunal

RAJA LAL, Desk Officer

नई दिल्ली, 30 जून 1990

का.आ. 1829.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वी. ए. सी. सी. ए. ए. लि., बम्बई के प्रबन्धन के संरक्षित निरोधकों और उनके कर्मचारियों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. 1, बम्बई के पक्षपट को प्रकाशित करती है, जो केन्द्रीय सड़कार को 19-6-90 को प्राप्त हुआ था।

New Delhi, the 20th June, 1990

S.O. 1829.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. I, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. A.B.C. & Sons (P) Ltd., Bombay and their workmen, which was received by the Central Government on 19-6-90.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I AT BOMBAY-I

(PRESIDING OFFICER, JUSTICE S. N. KHATRI)  
Reference No. CGIT-27 of 1989

PARTIES :

Employers in relation to the management of M/s. ABC & Sons Pvt. Ltd., Bombay.

AND

Their Workmen.

APPEARANCES :

For the Management.—Shri Talsania, Advocate.

For the Workmen.—Shri M. B. Anchan, Advocate.

INDUSTRY : Ports & Docks, STATE : Maharashtra.

Bombay, dated the 13th day of June, 1990

AWARD

The Central Government has referred the following industrial dispute to this Tribunal for adjudication under section 10 of the Industrial Disputes Act.

"Whether the action of the management of M/s. ABC & Sons Private Limited, Bombay in terminating the services of S/Shri S. N. Bhatt, P. H. Naik, P. G. Swar and M. H. Nadkarni, Dock Clerks, w.e.f. 1-4-1987 is legal and justified. If not, what relief are the workmen are concerned entitled to ?"

2. The workman have filed a memorandum today before the Tribunal, requesting it for disposing of the reference as not pressed. The workmen have been employed elsewhere to their satisfaction. Accordingly I dispose of the reference without any orders as not pressed. No orders as to costs.

[No. L-31011/8/89-I.R. (MISC)]

S. N. KHATRI, Presiding Officer

नई दिल्ली, 28 जून, 1990

का.आ. 1830 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलोकाम फैक्ट्री, बम्बई के प्रबन्धन से संबंधित निरोधकों और उनके कर्मचारियों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 1, बम्बई के पक्षपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 28th June, 1990

S.O. 1830.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom Factory, Bombay and their workmen, which was received by the Central Government on

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I AT BOMBAY

(Presiding Officer : Justice S. N. Khatri)

Reference No. CGIT-26 of 1989

PARTIES :

Employers in relation to the management of Telecom Factory, Bombay.

AND

Their Workmen.

APPEARANCES :

For the Management : Shri Kadam, Officer.

For All India P&T Workers' Union : Shri Jain, Asstt. General Secretary (C).

For Telephone Workers' Union : Shri Oak, General Secretary.

For P&T Mazdoor Union : Shri Kulkarni, Local Secretary.

INDUSTRY : Telephones.

STATE : Maharashtra.

Bombay, the 31st day of May, 1990

### AWARD

The Central Government has referred the following Industrial Dispute to this Tribunal for adjudication under section 10 of the Industrial Disputes Act, 1947 :—

"Whether the action of the management of Telecom Factory, Bombay in declaring one common seniority list for all progressmen in various Divisions is in order and justified? If not, what relief the workmen concerned are entitled to?"

2. Almost all material facts are not in dispute. The Telecom Factory, Bombay, is an industrial undertaking of the Government of India in the Department of Telecommunications, situated at Deonar. Amongst the industrial workmen employed in this Factory, are Progressmen, Grade I and II, with whom we are concerned in the present matter. The main job of these workmen is to chase, coordinate and keep a watch on the progress of production and allied matters, going on in different shops/sections of the Factory. These shops/sections have different names as well as code numbers allotted to them. Originally all Grade I and Grade II Progressmen were attached to the parent shop, namely, Progress Section (coded shop No. 4/2) and they were being assigned to different shops/sections on interchangeable basis. This was so, obviously because the work of a Progressman in all shops/sections was of similar pattern, namely to monitor the progress, and was not related to the specifics of a particular trade. Till 1964 or so, there used to be only two common seniority lists for all Progressmen, one for Grade I and the other for Grade II, irrespective of their posting in any shop/section at a given time. In 1964, the Management started recruiting Grade II Progressmen independently for each shop/section. Ever since separate seniority lists have come into vogue for each shop/section.

3. The Post and Telegraph Mazdoor Union (hereafter for short 'the P.T.M.') took up the matter with the Management for reverting back to the old system of having a common seniority list, because in their opinion, that system was more just and fair to the workmen in matters of promotion. In 1982 the Central Government set up a Committee, known as Central Trade Review Committee, to review and rationalise the existing industrial trades in Telecom Factories with a view to improve their efficiency and productivity. This Committee had inter alia recommended that there should be a common seniority list for all Progressmen for the purposes of recruitment, promotion etc. of Grade I and II respectively, irrespective of their place of working. The Central Government has accepted this particular recommendation in 1984 vide their letter dated 27th April, 1984 (Exh. M-1) addressed to the General Manager of the Bombay Telecom Factory. Here it may be noted that apart from Bombay, there are Telecom Factories at Calcutta and Jabalpur also. In both these Factories, the system of having common seniority lists for each Grade of the Progressmen has been in vogue.

4. After receiving the letter Exh. M-1, the General Manager of the Bombay Factory issued a notice of change in service conditions under section 9-A of the Industrial Disputes Act for inter alia giving effect to the aforesaid decision of the Government; vide item 2 of the annexure A to the notice dated 6th August, 1984 Exh. M-2. Consequent upon the failure of the conciliation proceedings, the Central Government made the present reference to this Tribunal by its order dated 2nd July, 1989.

5. The P.T.M., by their original statement of claim and the rejoinder, support the action of the Management. The other two Unions oppose the move. These Unions are Telephone Workers' Union (for short 'T.W.U.') and the All India Post and Telegraph Industrial Workers Union (I.W.U.) in

order to appreciate the rival stands of the parties, it will be of advantage to reproduce below the sanctioned and actual strength of the Grade I and II Progressmen working in the different shops/sections. These figures are extracted from the Written statement of the Management and are not disputed by any party :

Shop No.	Grade-I		Grade-II	
	Sanctioned Strength	Actual Strength	Sanctioned Strength	Actual Strength
4/2	11	11	14	13
25/1	—	—	1	1
25/2	—	—	1	1
29/1	1	—	—	—
29/2	1	1	1	1
29/3	—	—	3	3
31/1 R	1	1	—	—
34	—	—	1	1
31/4	—	—	1	1
	14	13	22	21

6. Here it is relevant to take note of an admitted fact that in order to remove stagnation in the skilled workmen belonging to the Grade II Progressmen, the Government had also taken a decision to convert 20 per cent of the posts of skilled workmen forming part of Grade II into posts of 'highly skilled-B' category, in the same Grade. The P.T.M. submit that if these promotions are given on the basis of separate seniority lists for each shop/section, almost all promotions will go to the parent shop that is shop 4/2 only, and the other shops in all of which the strength of the staff is less than 4, will not get any benefit, though more senior workmen are working there. The P.T.M. assert that in the interests of justice and fairness, as well as bringing uniformity in the working of all the three Telecom Factories in the Country, the action of the Management in preparing a common seniority list for all Progressmen, irrespective of their place of working, may be upheld.

7. The Management by their written statement justify their action for the reasons adverted to above. The other two Unions—T.W.U. and I.W.U.—oppose the action. According to them, there is no justification for reverting to the old practice of one common seniority list, inasmuch as it will work injustice to the workmen belonging to Shop No. 4/2.

8. The parties did not lead any oral evidence, because, as already stated above, material facts are not in dispute. By their consent, documents of all the four parties have been exhibited. Shri Kulkarni for the P.T.M., and Shri Oak for the T.W.U., made their rival submissions. The Management and the I.W.U. supported Shri Kulkarni and Shri Oak respectively.

9. I find great force in the submissions of Shri Kulkarni. I have already mentioned them above and need not, therefore, repeat them. All the material documents are on the record. I would like to mention just two of them. Exh. 1W-3 is a statement filed by the P.T.M., showing the shop-wise strength of the Progressmen. It will be seen that there are as many as 12 Grade II Progressmen in Shop No. 4/2, while in the remaining 7 shops, the highest number of Grade II Progressmen is 3 in one, 2 in one, 1 each in three and nil in two. This statement also gives the dates of entry of the workmen concerned in Grade II. From the break-up of the figures, it emerges that on the basis of separate seniority lists, as many as 3 promotions to 'Highly skilled-B, category of Grade II will go to Shop No. 4/2, while not a single workman out of the 8 employed in the remaining

workshops will get a chance for promotion. As against this on the basis of common seniority, in all 4 promotional posts will be available by conversion. Out of these, two will go to Shop No. 4/2, one to a workman in Shop No. 34 and one to Shop No. 25/1.

10. Exh. 1W-1 is the second document I would like to refer to. It is the relevant extract from the report of the Central Trade Review Committee on the problem of stagnation of workmen in the factories. It is really pathetic to note from this document that the over-all ratio for the posts of 'Highly-skilled B' category of workers—this category admittedly forms part of Grade II only—is just 2.36 per cent as against 36.72 per cent of posts for skilled workers. In other words, just one out of 16 skilled workers can aspire to get a chance of promotion, to 'Highly-skilled B' category. This is more than enough to highlight the depressing state of stagnation of the workmen concerned in this reference.

11. To sum up, I am absolutely satisfied that in the interests of justice and fairness, it is incumbent to have only one common seniority list for each Grade of the Progressmen, irrespective of the shop/section where they are working for the time being. The workmen in Shop No. 4/2 cannot be allowed to have unfair advantage over their brothers working in other shops/sections for all time to come. This will also bring about uniformity in all the three Telecom Factories.

12. Resultantly I hold that the action of the Management of Telecom Factory, Bombay, in declaring one common list for all Progressmen in various Divisions is in order and justified. Consequently the second part of the reference does not survive. Parties shall bear their costs as incurred. Award accordingly.

S. N. KHATRI, Presiding Officer

[No. L-40011/21/88-D-II(B)]

का. घा. 1831.—श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 1) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम.डी.ओ. (फोन) मार गोवा, के प्रबन्धन से संबद्ध विरोधों और उनके कर्षकारों के बीच अनुबन्ध में निर्दिष्ट श्रीयोगिक विवाद में केन्द्रीय सरकार श्रीयोगिक अधि-करण नं. 2 बम्बई के पंचपट को पञ्चालि करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 1831.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of SDO (Phones) Margoa, Goa and their workmen, which was received by the Central Government on.....

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri P. D. Apshankar,

Presiding Officer

Reference No. CGIT-2/43 of 1987

PARTIES :

Employers in relation to the management of Sub-Divisional Officer, Phones, Margoa, Goa.

AND

Their Workman

APPEARANCES :

For the Employers.—Shri B. M. Masurkar, Advocate.

For the Workman.—Shri K. G. Malkar, Advocate.

INDUSTRY : Telephones

STATE : Goa.

Bombay, the 30th May, 1990

#### AWARD

The Central Government by their order No. L-40012/20/86-D-II(B) dated 24-8-1987 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act :—

"Whether the action of the management of S.D.O. Phones, Margoa, Goa in refusing employment[duty] to Shri Ganesh Ramakrishna Ghuge is legal and justified? If not, to what relief the concerned workman is entitled?"

2. The case of the workman Shri Ganesh R. Ghuge as disclosed from the statement of claim (Ex. 2) filed by him in short, is thus :—

The said workman was working as a labourer on the muster roll of P.T. Department since January 1983. On 4-4-1986 when he went to receive salary for the month of March 1986, he was surprised to note that he was marked absent from 27-3-1986, even though he was present for the work and had worked under the Junior Engineer Phone, Margoa. He was further asked to (Indore) accept a certain letter and sign in token of having received it. He suspected some foul-play and refused to accept that letter, as he was not aware of the contents thereof. The Sub-Divisional Officer, Phones, Margoa orally told him that unless he would accept that letter he would not get the salary for the month of March 1986, and would not be allowed to resume his duty. His last drawn wages were Rs. 325.50 per month. Under the said circumstances he did not get his salary for the month of March 1986. On 4-4-1986 he was informed by the Junior Engineer not to report for duty from that day onwards and hence he did not attend to his duty thereafter. The workman thereafter approached the higher authorities to settle his case, but he did not get justice from them. Therefore, he raised an industrial dispute before the Assistant Labour Commissioner (C), Vasco-de-Gama. However, the conciliation proceedings ended in failure and hence the Central Government made the reference as above.

3. According to the workman, his services have been terminated by the management illegally and arbitrarily without following the principles of natural justice and without holding any departmental enquiry against him regarding any alleged misconduct on his part. The workman, therefore, prayed that the management be directed to reinstate him in service with full back wages and continuity of service.

4. The Divisional Engineer Telegraphs, Panaji Goa filed his written statement at Ex. 3. A further additional written statement (Ex. 4) was filed by the Telecom District Engineer, Panaji Goa. The contentions of the management, in short, are thus :—

The said workman Shri Ghuge was working as a Daily-rated workman on muster roll under Sub-Divisional Officer, Phones, Margoa, in MAX-II (Unit-I) on 'No work no pay' basis since 1983. This Exchange was closed down on 23-3-1986. Therefore, the mazdoors working at that Exchange became surplus. A decision was taken by the management to divert the affected mazdoors to some other work place under the same sub-division at Margoa. The mazdoors were, therefore, directed to report for duty to I.T.O. Cable, Margoa with effect from 23-3-1986. Shri Ghuge was also orally instructed accordingly. However, Shri Ghuge did not report for duty at the new place. Hence he was directed by the SDOP Margoa by a written order dated 4-4-1986 to report for work at the new place. However, he refused to accept that order in writing and left the office. That order was, therefore, put up on the Notice Board of the office.



A similar letter dated 12th April, 1986 sent to him was also refused, and returned back undelivered to the office. The workman also admitted in his claim statement that he had refused to accept the letter from the management. The said workman remained absent continuously from 23rd March, 1986. His statement that he had worked from 23rd March, 1986 till 4th March, 1986 is not true and correct. His statement that he was asked not to report for duty from 4th April, 1986 is not true and correct and is false. No oral or written order was issued to him directing him not to report for duty from 4th April, 1986 or any other date. The said workman had not been dismissed from service, as alleged by him. On the contrary he himself had refused to report for duty at the new place from 23rd March, 1986, as orally directed. As such the workman is not entitled to reinstatement in service or to any other relief. The management therefore, prayed for the rejection of the prayer of the workman.

5. The Issues framed at Ex. 5 are :—

- (1) Whether the management proves that the workman Shri G. R. Ghuge was directed to report himself for duty to JTO Cable, but that he himself failed to report himself there?
- (2) Whether the workman proves that he was entitled to the salary for the month of March, 1986, but that he did not get it from the management?
- (3) Whether the workman proves that he was directed by the Junior Engineer Shri Pithalis not to report for duty from 4th April 1986, and hence, he did not attend to his duty.
- (4) Whether the services of the said workman have been terminated by the management, and if so, whether the said termination was improper and illegal?

(5) To what relief the said workman is entitled?

(6) What Award?

6. My findings on the said Issues are :—

- (1) Yes.
- (2) No
- (3) No
- (4) Services not terminated.
- (5) Nil.
- (6) Award as per final order below.

#### REASONS

ISSUES NOS. 1, 3, 4 and 5:

7. The workman Shri Ghuge examined himself in support of his case at Ex. 6 and he was cross-examined on behalf of the management. The Sub-Divisional Officer Phones Shri H. V. Ramakrishna filed his affidavit in support of the case of the management at Ex. 9 and he was cross-examined on behalf of the workman. Now, the case of the workman that on 4th April, 1986 when he went to receive his salary for the month of March, 1986, he was asked to accept a certain letter, failing which he would not be allowed to resume his duty from the next day cannot be accepted, but the case of the management on that he himself did not report at the new place of work, can very well be accepted in view of the documentary evidence produced on behalf of the management thus :—

Ex. 12 is a true copy of letter dated 20th March, 1986 sent by the Sub-Divisional Officer, Telephones, Margoa, to the Junior Engineer Shri V. Pithalis. In substance this letter stated that as per recent Co-ordination meeting the PRX was to be opened on 22nd March, 1986 as there was maximum work and help was required at RMDF (PRX). By the said letter the Junior Engineer was requested to divert the mazdoors from the old place of work to RMDF Jumping work as there was not much work at the old exchange. Thus, as per this letter, the old exchange was to be closed and the new exchange to be opened, and the workers from the old ex-

change were to be asked to work at the new place of work. The workman also admitted in his cross-examination that he was working at Indoor place in Goa Margoa, where there was a Telephone Exchange, and that Telephone Exchange was shifted to some other place a furlong away. He further admitted in his cross-examination that the mazdoors started work at the new place after 4th April, 1986. Ex. 14 is another letter dated 23rd March, 1986 sent by the S.D.O. Phones to the said Junior Engineer. By this letter the Junior Engineer was requested to instruct the mazdoors in that list to report at the new place and the name of the workman Shri Ghuge is appearing at S. No. 6 in the list of workmen in that letter. As such the workman Shri Ghuge was to be asked to report for duty at the new place of work. Ex. 13 is a true copy of the letter by the S.D.O. Phones dated 4th April, 1986 addressed to the workman Shri Ghuge. This letter stated that the S.D.O. Phones had called Shri Ghuge to his office for some urgent work on 23rd March, 1986, but that Shri Ghuge had not turned up till the date of the letter i.e. 4th April, 1986 and as such Shri Ghuge has been marked absent from 23rd March, 1986. Thus the workman Shri Ghuge was called at the office of the S.D.O., but he himself did not report there and did not see the S.D.O. Phones. Ex. 13B is a copy of the letter by the Junior Engineer addressed to S.D.O. P. Margoa dated 12th April, 1986. By this letter the Junior Engineer had informed the S.D.O. P. that the necessary letter addressed to the workman Shri Ghuge was sent to his permanent address at Akola for information. As such steps were taken by the management to send the necessary letter asking him to report for duty at the new place, even at his permanent address at Akola.

B. Ex. 8 is the original Muster roll maintained by the management for the month of March 1986. It is seen therefrom that the workman Shri Ghuge was firstly marked present from 24th to 31st March, 1986. Later on, his presence was scored out and he was shown absent from 24th to 31st March 1986. This fact is admitted even by the management. However, according to the management, as the workman had failed to report at the new place of work from 24th March, 1986, he was shown absent. It seems that the workman remained present in the old place of work, as he was marked present at the old place. However, later on, that presence was scored out and he was shown absent during the said period as he had failed to report at the new place of work. Ex. 18 is a copy of the letter dated 8th April, 1986 sent by the S.D.O.P. addressed to the workman Shri Ghuge. This letter stated that the said workman was instructed by the S.D.O.P. to report for duty to Shri P. V. Gaonkar at the new place from 23rd March, 1986, but he had failed to report himself for duty. The workman was given one more opportunity to report as above, and to state why he had failed to report accordingly. It is seen that as the said workman was not present a copy of that letter was affixed on the Notice Board of the office. Ex. 11 is a copy of the letter dated 15th May, 1986 by Shri Pandey addressed to S.D.O.P., Margoa. This Marathi letter stated that till the date of that letter i.e. 15th May, 1986 the workman Shri Ghuge had not reported for duty. It is thus quite clear that even though the workman was informed orally and in writing to report for work at the new place, he himself had failed to report accordingly. As such the management had not terminated the services of the workman at any time, nor had the management any intention to terminate his service. Therefore, in view of the said documentary evidence on management not to resume his duty from 5th April, 1986 cannot at all be accepted. I find that the workman himself had abandoned the service and his service was not terminated in any way at any time. As such he is not entitled to any relief. Issues Nos. 1, 3, 4 and 5 are found accordingly.

Issue No. 2

9. According to the workman, he was entitled to the salary for the month of March 1986, but he was not paid his wages. However, it is seen from the original muster roll Ex. 8A that there is an entry stating that the workman Shri Ghuge was paid Rs. 241.50 as wages for the month of March 1986 on 7th April, 1986. On the reverse of this

sheet, there is a slip attached to it showing that an amount of Rs. 241.50 was sent to the workman Shri Ghuge by Money Order. As such I accept the contention of the management that the workman was paid all the wages that were due to him. Issue No. 2 is found accordingly.

10. Even though the workman had failed to report at the new place of work as seen above, it is seen that he is now prepared to work under the management. It is, therefore suggested that the management may appoint him as a fresh employee at the earliest.

employee at the earliest.

Issue No 6 :

11. In the result the following award is passed.

#### AWARD

The management of S.D.O. Phones, Margao, Goa has not refused employment/duty to Shri Ganesh Ramakrishna Ghuge. He himself had failed to report for duty at the new place of work.

However, the management may consider to re-appoint the said workman as a fresh employee at the earliest. The parties to bear their own costs of this Reference.

30-5-1990.

P. D. APSHANKAR, Presiding Officer

[No. L-40012/20/86-D.II(B)]

का. प्र. 1832.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकम्युनिकेशन पटना के प्रबन्धतन्त्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक आधिकार सं. 1 धनाब के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्ति हुआ था।

S.O. 1832.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1 Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecommunication Patna and their workmen, which was received by the Central Government on

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 70 of 1989

#### PARTIES :

Employers in relation to the management of P & T Tele-Communication, Patna.

#### AND

Their Workmen.

#### PRESENT :

Shri S. K. Mitra, Presiding Officer.

#### APPEARANCES :

For the Employers—Shri R. Prasad, Advocate.

For the Workmen—Shri J. P. Singh, Advocate.

(At the time of final hearing—None).

STATE : Bihar

INDUSTRY : Coal

Dated, the 21st May, 1990

#### AWARD

By Order No. L-40012/96/88-D.II (B), dated, the 26th May, 1989; the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of Executive Engineer (E), Postal Elect. Division Lucknow in retrenching the services of Shri V. K. Pandey is legal and justified? If not, to what relief the workman is entitled?”

2. The case of the employer—Executive Engineer-Postal Electrical Division Lucknow as disclosed in the written statement details apart, is as follows :

The present dispute is not maintainable as a dispute under Section 2-A of the Industrial Disputes Act, 1947 and there remains nothing for retrfrched as the concerned workman was not retrenched from service as alleged and so adjudication about the action of the employer is not warranted. Postal Electric Division used to engage casual workmen for day to day miscellaneous and other occasional nature of work.

The concerned workman was engaged on 12-7-84 as Diesel Engine Operator on casual basis to work at Bankipur post office, Patna. He discharged his duties as casual workman at the direction of the employer. He was not retrenched from service nor was he not allowed to work. There was an accident in the lift at Bankipur Post Office on 16-2-87 causing death of one man. The concerned workman absented himself from duty on and from 17-2-87 without giving any information to any authority. Thereafter he collected his dues for 16 days on 19-3-87 and even on that date he neither expressed his desire to join his duty nor gave any explanation for his absence. He was absent on and from 17-2-87 and so the question of the department not having followed the instruction in the matter of retrenchment and discharge from service does not arise. He has concealed the material facts intentionally in order to get relief. Since he himself absented from duty on and from 17-2-87, the question of continued service after 16-2-87 does not arise and so provisions of Section 25(B) of the Industrial Disputes Act has got no manner of application in the present case. Casual workmen are engaged according to the nature of work and the service of such employees may be terminated on completion of specified work for which they were engaged. But in the case of the present workman he himself absented from duty on and from 17-2-87 without assigning any reason and information to his employer. The instruction of the Department is not applicable to the present case since the concerned workman absconded on his own accord. At his request he was allowed to join as a daily rated mazdoor at Buxar in the office of R.M.S. Office, Buxar but he did not join his duty there. The question of submitting chargesheet or initiating departmental proceedings does not arise in the context of facts and circumstances of the present case. In the circumstances the employer has prayed that the present industrial dispute be dismissed.

3. The case of the concerned workman, V. K. Pandey, as disclosed in his written statement, briefly stated, is as follows:

He was appointed on 12-7-87 as Diesel Engine Operator under the Assistant Engineer, Postal Electrical Sub-Division, Patna. This employment was sponsored through Employment Exchange, Patna and recommendation was made on the basis of experience certificates as Diesel Engine Operator issued by the Manager of Urbashi Cinema Hall, Betia. He worked to the entire satisfaction of the superior officers and possessed unblemished record of service. On

17-2-87 he was not permitted to work and thereby he was retrenched from service. The departmental instructions in the matter of retrenchment and discharge from service was not followed in his case. He continued to work as Diesel Engine Operator since 1984 till the date of retrenchment and rendered continuous service within the meaning of Section 25-B of the Industrial Disputes Act, 1947 and in each completed year of service, he has worked for more than 240 days. The departmental instruction conveyed to all the officers of the department was issued in conformance to the provisions of Industrial Disputes Act, 1947 to the effect that even a temporary or casual employee on completion of 240 days service in a calendar year would be deemed to have continued in service and if the continuity of service continued in the succeeding year on completion of further 240 days he would be entitled to regularisation. Unfortunately, in his case this aspect of law and instruction was completely ignored by the department. The provisions of Section 25-F of the Industrial Disputes Act was not followed by the management because no retrenchment compensation was paid to him nor was any information given to the Government about his retrenchment. He made a demand to reinstate him in service, but the management did not give reply nor did it take any action. Being aggrieved, he raised an industrial dispute before the Asstt. Labour Commissioner (C), Patna where the management appeared after several dates and took the plea of misconduct on his part while working in the capacity as lift man. The plea was false because no chargesheet or departmental proceeding was initiated him. The management took the plea that there was no Diesel Engine in operation and therefore the concerned workman was retrenched for want of work. This plea is also false because several persons junior to him remained in service and there was no dearth of work for them. Even after the so-called retrenchment the concerned workman, by order of the department, was posted at Buxer in Railway Mail Service (RMS) as Diesel Engine Operator. He, in obedience to the said order, joined at Buxer, but was not paid his remuneration. In the circumstances, he has submitted that the action of the management in stopping him from service and not allowing him to work in spite of his posting at Buxer are instance of vindictiveness on the part of the management. He has prayed that he be reinstated in service with effect from 17-2-87 and paid back wages.

4. In rejoinder to the written statement of employer, the Advocate of the concerned workman has stated that the management has placed only distorted view of law but has not denied that the concerned workman completed 240 days' attendance in each calendar year during his service. It has not been denied also that provisions of Section 25-F of the Industrial Disputes Act has not been followed.

5. The management appeared before this Tribunal and filed written statement. But at the time of final hearing no representative or Advocate of the management attended the Tribunal. It is observed that the management has not filed any document in support of its case as required under the rules framed under Industrial Disputes Act.

On the other hand, the concerned workman has examined himself and laid in evidence a number of documents which have been marked Exts. M-1 to M-7.

6. It is an undeniable fact that the concerned workman was appointed on 12-7-87 as Diesel Engine Operator under Assistant Engineer, Postal Electrical Sub-Division, Patna. It has been asserted by the concerned workman in his written statement that this employment was made through Employment Exchange, Patna and recommendation was made on the basis of experience certificate as Diesel Engine Operator issued by the Manager of Urbashi Cinema Hall, Bettia. This statement of fact has not been denied by the employer in its written statement. The management has asserted that the concerned workman was appointed as a casual workman. The concerned workman has not disclosed his status of

employment in his written statement. But has admitted at the time of hearing that he was appointed as casual workman on daily wages. This being the position, the issue is clinched that the concerned workman was appointed as casual workman on 17-2-87 in the capacity of Diesel Engine Operator under the Assistant Engineer, Postal Electrical Sub-Division, Patna.

7. The concerned workman has asserted that he continued to work as Diesel Engine Operator from the date of his appointment till the date of his retrenchment on 17-2-87 and rendered continuous service and in the process he worked for more than 240 days in each completed year of service. The employer has denied that the concerned workman was retrenched from service, but did not deny that he completed 240 days of attendance in each completed year of service. The concerned workman has stated in his testimony that he was appointed in the postal department on 12-7-84 as Diesel Engine Operator and posted under the Assistant Engineer, Postal Electrical Sub-Division, Patna and that he continued to work in that Division and on the same job upto 16-2-87. It is his further testimony that during the period he rendered continuous service to his employer and in every year he completed 240 days' attendance. This being so, the evidence on record establishes the fact that the concerned workman worked for the employer since the date of his appointment on 12-7-84 till 16-2-87 and that in every year he completed 240 days attendance.

8. The case of the employer is that an accident took place in the lift at Bankipur Post Office on 16-2-87 causing death of one man and thereafter the concerned workman became scarce and that on 19-3-87 he collected his wages for 16 days and again absconded without joining his duty or giving any explanation for his absence. It appears that the cases of the employer is that the concerned workman voluntarily absconded his service. Abandonment of employment is a matter of evidence and in considering abandonment of employment the factor of intention is essential. It appears that there is no evidence on this point laid by the management. On the other hand, it appears from the evidence on record that the concerned workman has been pursuing his claim for employment with the employer. His letter dated 16-6-87 (Ext. W-1) and the letter of appointment issued in his favour by the employer dated 4-11-87 (Ext. W-4) establishes the fact that the concerned workman never intended nor did he actually abandoned his employment.

9. It is definite case of the concerned workman that the departmental instruction issued in conformance to the provision of the Industrial Disputes Act, 1947 envisages that temporary or casual employee should be regularised in service on completion of continuous service for a period of 240 days in a calendar year followed by continuous service for the same period in the succeeding year. This statement of fact has not been denied by the employer. Anyway, there is no dispute that the employer had not allowed the concerned workman to join his service on or after 17-2-87. This amounts to termination of service by retrenchment. Section 25-F of the Industrial Disputes Act envisages conditions precedent to retrenchment of workman. It envisages that no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched until the workman has been given one month's notice in writing indicating the reasons for retrenchment or pay in lieu of such notice and retrenchment compensation and notice in the prescribed manner to the appropriate Government. Section 25-B of the Industrial Disputes Act envisages that in order to compute service for one year the workman must work for 240 days or 190 days as the case may be. In the present case the concerned workman has worked for more than 240 days in a calendar year and so he was entitled to notice or wages in lieu of notice and retrenchment compensation and the employer was to give notice to the appropriate Government in the prescribed manner. But the employer has not paid him one month's pay in lieu of notice and retrenchment compensation nor did it give notice in the prescribed manner to the appropriate Government. That being so, the termination of the service of the concerned workman is considered to be illegal and unjustified.

10. There is no vestige of evidence on record to indicate that the employer has no need for Diesel Engine Operator.

It appears from the pleading that some of the diesel operators junior to the concerned workman in service are still in service. That being so, I consider that there is requirement for Diesel Engine Operator by the management.

In the circumstances, the action of the management in retrenching the concerned workman from service is illegal and unjustified. The employer is directed to reinstate him in service within one month from the date of publication of this award. He is also entitled to back wages with effect from the date of the present reference i.e. from 26-5-1989.

11. Accordingly, the following award is rendered—the action of the employer—Executive Engineer (E), Postal Elec. Division Lucknow in retrenching the services of the concerned workman, V. K. Pandey, is illegal and unjustified. The employer is directed to reinstate him in service within one month from the date of publication of the award and to give him back wages with effect from 26-5-1989 and give him continuity of service treating his absence from 17-2-87 till 26-5-89 as absence from duty without pay.

In the circumstances of the case, 1 ward no cost.

S. K. MITRA, Presiding Officer

[No. L-40012/96/88-D.II (B)]

V. K. SHARMA, Desk Officer

नई दिल्ली, 22 जून, 1990

का.प्रा. 1833.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (6) के उपबन्धों के अनुसरण में, भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.प्रा. 71 दिनांक 20 दिसम्बर, 1989 द्वारा कोयला उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 2 जनवरी, 1989 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था,

और केन्द्रीय सरकार को राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है।

अतः अब, औद्योगिक विवाद अधिनियम, 1957 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (6) के परन्तुक द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 2 जुलाई, 1990 से छह मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या: एस-11017/13/81-आई.आर.(पॉलिसी)]

New Delhi, the 22nd June, 1990

S.O. 1833.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S.O. No. 71 dated the 20th December, 1989 the Coal Industry to be a public utility service for the purposes of the said Act for a period of six months from the 2nd January, 1990;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period for a further period of six months;

Now, therefore, in exercise of the powers conferred the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be public utility service for the purposes of the said Act, for further period of six months from the 2nd July, 1990.

[No. S-11017/13/81-I.R. (Policy)]

का.प्रा. 1834.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 3 के खंड (इ) के उपखंड (6) के उपबन्धों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.प्रा. 3302 दिनांक 11 दिसम्बर, 1989 द्वारा सीमा खनन उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 2 जनवरी, 1989 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था,

और केन्द्रीय सरकार को राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है,

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (6) के परन्तुक द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 2 जुलाई, 1990 से छः मास की और कालावधि के लिए उपयोगी सेवा घोषित करती है।

[का. एस-11017/7/85-आई.आर. (पॉलिसी)]

नन्द लाल, अवर सचिव

S.O. 1834.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour No. S.O. 3302 dated the 11th December, 1989 the Copper Mining Industry to be a public utility service for the purposes of the said Act, for a period of six months, from the 2nd January, 1990;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 2nd July, 1990.

[No. S-11017/7/85-I.R. (Policy)]

NAND LAL, Under Secy.

नई दिल्ली, 26 जून 1990

का.प्रा. 1835.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1-7-1990 को उक्त तारीख के रूप में नियम करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले हो प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 धारा 76 की उपधारा (1) और धारा 77, 78, 79, और 81 के सिवाय जो पहले हो प्रवृत्त की जा चुकी है) के उपखंड उद्योग राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, यर्जन—

“जिला कटक में कटक म्युनिसिपल सोसा. में बाने वाले क्षेत्र उन क्षेत्रों के प्रतिरक्षा जहाज अधिनियम के उक्त प्रावधान पहले ही लागू किये जा चुके हैं।”

[सं. एर-38013/16/90-एच.एच. 1]

New Delhi, the 26th June, 1990

S.O. 1835.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st July, 1990 as the date on which the provisions of Chapter IV (except sections 44 and 45, which have

already been brought into force) and Chapters V and VI (except sub-section (1) of sections 76 and 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Orissa namely :

"The areas comprising of the Municipal Limit of Cuttack in district Cuttack except the areas in which the said provisions of the Act have already been brought into force".

[No. S-38013/16/90-SS.I]

क्र.सं. 1836.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एन.ए.आर. 1-7-1990 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 (धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध असम राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात्:—

राजस्व ग्राम का नाम	मौजा व तालुक	जिला
पानीखेत	बैलटोला	कामरूप
खंजकार	पानबारी	कामरूप

[सं. एस.-38013/17/90-एसएम-1]

S.O. 1836.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st July, 1990 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of section 76 and 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Assam namely :

Name of the Revenue Village	Mauza & Taluk	District
Panikhaiti	Beltola	Kamrup
Khangkar	Panbari	

[No. S-38013/17/90-SS.I]

नई दिल्ली, 29 जून, 1990

क्र.सं. 1837.—कर्मचारी भविष्य निधि और प्रविण्ड फंड अधिनियम, 1952 (1952 का 19) की धारा 6 के पहले परम्पुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, असम संघास्य, भारत सरकार की अधिसूचना संख्या सा. क्र. 360 (ई) दिनांक 17 मार्च, 1989 जो कि भारत के अध्याधारण राजपत्र के भाग-II खण्ड 3 (ii) दिनांक 17 मार्च, 1989 में प्रकाशित हुआ है, में निम्नलिखित संशोधन करती है, अर्थात्:—  
उक्त अधिसूचना में,

(1) परम्पुक में,—

(i) खण्ड (ii) के लिये निम्नलिखित खंड प्रतिस्थापित किया जाएगा, अर्थात्:—

"(ii) कोई अन्य औद्योगिक कंपनी जैसा कि रंग औद्योगिक कम्पनियां (विशेष उद्देश्य) अधिनियम, 1985 (1986 का 1) की धारा 3 की उपधारा (1) के खण्ड (बो) में परिभाषित किया गया है और जिसे उक्त अधिनियम की धारा 4 के

अंतर्गत स्थापित औद्योगिक और वित्तीय पुनर्निर्माण बोर्ड में संशोधन की तिथि से अंतरिम प्राप्ति के संदर्भ के लिए घोषित किया गया हो और उस की समर्पण या जो उस निधि को जिससे धारा 17 की उपधारा (2) के तहत रकम निकाली जायेगी, का प्रत्येक वर्ष उक्त कम्पनी का निवृत्त मुद्दा निर्दिष्ट किया गया हो, या अधिनियम की धारा 18 के अंतर्गत स्वतंत्र स्थापित के कार्यन्वयन को प्रतिनिधि निधि, जैसा कि मामला हो, समाप्त होना है।

(ii) खंड (iii) के लिए निम्नलिखित खंड प्रतिस्थापित किया जाएगा, अर्थात्:—

"(iii) और किसी अन्य स्थिति, जिसे किसी वित्तीय वर्ष के अंत तक अपने समस्त निवृत्त मुद्दों के बराबर या उससे अधिक प्रत्येक वर्ष पूंजी और स्वतंत्र आरक्षणों के बराबर या अधिक हानियां हुई हैं और जिसे ऐसे वित्तीय वर्ष में तथा ऐसे वित्तीय वर्ष से आश्रय पूर्व वित्तीय वर्ष में हानियां हुई हों।"

(2) अनुसूचों में,

(i) क्रम सं. 5 के सामने, "माचिस" शब्दों के बाद, "हाथ से बनी माचिस को छोड़ कर" शब्द जोड़े जाएंगे,

(ii) क्रम संख्या 24 के सामने, "एस्बेस्टो काटन" शब्दों के स्थान पर "एस्बेस्टो सीमेंट" शब्द प्रतिस्थापित किए जाएंगे।

[संख्या एस-35019 (1) 89-स. सु.-II]

ए. के. मटारानी, अवर सचिव

New Delhi, the 29th June, 1990

S.O. 1837.—In exercise of the powers conferred by the first proviso to section 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour No. S.O. 360(E), dated the 17th May, 1989, published in the Gazette of India, Extra ordinary, Part II, Section 3(ii), dated the 17th May, 1989, namely :—

In the said notification,—

(1), in the proviso,

(i) for clause (ii), the following clause shall be substituted, namely :—

"(ii) any sick industrial company, as defined in clause (o) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) and declared as such by the Board for Industrial and Financial Reconstruction established under section 4 of that Act, for the period commencing on and from the date of registration of the reference in the Board and ending either on the date by which the net worth of the said company becomes positive in terms of the orders passed under sub-section (2) of section 17 or on the last date of implementation of the scheme sanctioned under section 18 of the Act as the case may be;"

(ii) for clause (iii), the following clause shall be substituted, namely :—

"(iii) any other establishment which has at the end of any financial year accumulated losses equal to or exceeding its entire net worth, that is, the sum total of paid-up capital and free reserves and has also

suffered cash losses in such financial year and the financial year immediately preceding such financial year."

(2) in the Schedule,

- (i) against serial number 5, after the words "Matches", the words, "other than hand made matches" shall be inserted;
- (ii) against serial number 24, for the words "Asbestox cotton", the words, "Asbestos cement" shall be substituted.

[No. S. 35019(1)/89-SS.II]

A. K. BHATTARAI, Under Secy.

नई दिल्ली, 26 जून, 1990

का. मा. 1838.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यू बैंक ऑफ इंडिया के प्रबन्धन के सबूत निबोधकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक पधिकरण, कानपुर के पंचपर को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 26th June, 1990

S.O. 1838.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the New Bank of India and their workmen, which was received by the Central Government.

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 143 of 1989

In the matter of dispute between :

The Assistant General Secretary, Uttar Pradesh, Bank  
Employees Congress, 2/363 Namagir, Agra-282091.

AND

Dy. General Manager, New Bank of India, 94 M. Marg,  
Lucknow-226003.

APPEARANCE :

Shri V. K. Gupta and Shri S. P. Singhal—for the work-  
man.

Shri Jagat Arora, Advocate—for the Management.

AWARD

1. The Central Government, Ministry of Labour, vide its notification no. L-12011/18/89-D.22(A) dated 30th May, 1989, has referred the following dispute for adjudication to this Tribunal:—

Whether the action of the management of New Bank of India in not granting full subsistence allowance to Shri K. K. Paliwal after the period of one year of suspension as per clause 5 of Bipartite Settlement dated 8-4-83 is justified? If not, to what relief is the workman entitled?

2. The admitted facts are that the workman Shri K. K. Paliwal, was suspended on 5-11-86, and was served with chargesheet dated 2-1-87. During inquiry proceedings he was paid subsistence allowance at the prescribed rate till November, 1987.

3. The workman's case in short is that after November, 1987, the management of the New Bank of India, unilaterally

reduced the subsistence allowance to 1/2 in violation of the provisions of Shastri Award and Desai Award as modified from time to time by various bipartite settlements. According to the workman the action of the management is illegal. He has therefore, prayed that directions be issued for payment of arrears of subsistence allowance with interest at 18 per cent per annum.

4. The management plead that their action in reducing the subsistence allowance w.e.f. December, 1987, cannot be termed either as arbitrary or illegal. During inquiry proceedings the workman himself sought adjournments on 26-6-87, 30-7-87, 4-11-87, 15-12-87, 2-1-88, 12-2-88, 13-2-88 and 26-4-88, thus causing delay in the conclusion of the inquiry. According to clause V of Bipartite Settlement dated 8-9-83 full subsistence allowance need not be paid if the delay in the departmental inquiry is attributable to the workman or his defence representative. Hence the workman is entitled to no relief.

5. In the rejoinder it is alleged by the workman that during inquiry proceedings adjournments were requested by all the three parties i.e. the workman, the presenting officer and the inquiry officer on valid grounds.

6. In support of his case, the workman has filed his own affidavit. No evidence has been adduced by the management in defence. However, in pursuance of the order dated 23-3-90, the management have filed the copies of proceedings with affidavit of Shri Hardar Singh, an Officer of the Bank.

7. As already stated above, the workman was suspended on 5-11-86, and was served with chargesheet dated 2-1-87. From the copies of inquiry proceedings filed by the management it appears that the inquiry started on 11-5-87. Thus there was a gap of about 2 months between the order of suspension and the date of chargesheet and a gap of about 4 months between the chargesheet and the starting of inquiry.

8. On 11-5-87, the inquiry was adjourned to 21-5-87. It was again adjourned but without fixing any date. The inquiry was taken up again on 26-6-87, on which date the workman requested for adjournments on the ground that intimation regarding the setting in connection with the inquiry was received by him very late and so his defence representative Shri Gupta, could not manage to attend the inquiry. On the said ground the Enquiry Officer, adjourned the inquiry without fixing any date. The inquiry was again taken up on 30-7-87. On that date, the workman again sought adjournment on the ground of illness. Requests was acceded to and the inquiry was adjourned without fixing any date. Thus the adjournment sought on 26-6-87 and 30-7-87 by the workman cannot be said as without any sufficient grounds. It would have been much better if the inquiry officer on 21-5-87, 26-6-87 and 30-7-87 granted short adjournments in order to expedite the inquiry, but as we have seen above he adjourned the inquiry on those dates without fixing the date on which inquiry proceedings were to be taken up subsequently. I may state here that after 30-7-87, the inquiry was taken up by the inquiry officer on 26-10-87 i.e. almost after a period of 3 months. Why long adjournments were given is not understood. There is no evidence on record to show that long adjournments were sought by the workman. On 4-11-87, the case was again adjourned as till 11.30 a.m. neither the workman nor his representative turned up. The workman and his defence representative had full knowledge of the date as on 26-10-87, the inquiry was adjourned to 4-1-87. Thus it appears that on two occasions i.e. on 26-6-87 and 30-7-87 the workman sought adjournments on sufficient grounds. He was a defaulter only on 4-11-87.

9. Clause V of Bipartite Settlement on Misc. Issues II, dated 8-9-83, is with regard to subsistence allowance. According to it during the first three months the workman under suspension will be entitled to subsistence allowance at the rate of 1/3rd of the pay and allowances and thereafter, at 1/2 of the pay and allowances after one year at full pay and allowances, if the inquiry is not delayed for reasons attributable to the concerned workman or any of his representative.

10. The period of one year in the case of Sh. K. K. Paliwal, expired on 4-11-87. There is no dispute about the fact that till November, 1987, he was paid subsistence allowance at the prescribed rate, i.e. to say in respect of the period 5-11-87 to 30-11-87 he was paid subsistence allowance at full pay and allowances. It could have been possible only if the management was satisfied that the inquiry had not been delayed by the workman or his authorised representative. I may also state here that in his cross examination the workman has deposed that during the period 6-11-87 to 30-11-87 subsistence allowance was paid to him at full pay and allowances. The management have not filed any order reducing the subsistence allowance to 1/2 after November, 1987. The order, if any, passed in this regard would have shown as to what made the management reduce the amount of the subsistence allowance. Further the principles of Natural Justice required that before reducing the subsistence allowance to 1/2 of the pay the workman or his representative should have been granted a hearing. In the absence of all this, the action of the management cannot be held as justified.

11. Hence, it is held that the action of the management of New Bank of India in not granting full subsistence allowance to Shri K. K. Paliwal, after the period of one year of suspension as per clause V of 3rd Bipartite Settlement Misc. Issues II dated 8-9-83 is not justified. Consequently, Shri Paliwal is held entitled to full subsistence allowance payable at full pay with the allowances after the period of one year of suspension during the period of his suspension.

12. The reference is answered accordingly.

ARJAN DEV, Presiding Officer

[No. L-12011/18/89-D-II(A)]

नई दिल्ली, 29 जून, 1990

का. मा. 1839.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचना में केन्द्रीय सरकार सेट्टल बैंक बाफ इंडिया के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुसूच में निम्नित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 29th June, 1990

S.O. 1839.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Central Bank of India and their workmen, which was received by the Central Government.

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,  
CUM-LABOUR COURT, PANDU NAGAR, DEOKI  
PALACE ROAD, KANPUR-208005

Industrial Dispute No. 178 of 1988

In the matter of dispute between :

Shri Jai Chandra Singh,  
C/o Shri O. P. Nigam,  
295/387, Din Dayal Road,  
Ashrafabad, Lucknow.

AND

The Regional Manager,  
Central Bank of India, Gwalghar,  
Gorakhpur-213015.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-12012/85/88-D-II(A), dated 9-12-88 has

referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Central Bank of India in dismissing Shri Jai Chandra Singh from the service of the Bank is justified? If not, to what relief the concerned workman entitled?

2. The admitted facts are that Shri Jai Chandra Singh, workman while he was working as clerk-cum-cashier at Branch Office Bahraich of the Bank was suspended by the Regional Manager, Gorakhpur Division on 22-5-84. The Regional Manager, thereafter, issued a chargesheet to him containing 3 charges. The charges are :—

1. On 18-07-83, one Mr. Vinod Kumar Singh Sengar, resident of Village—Laluh, Distt. Bahraich visited Bahraich Branch during working hours for opening of his HSS Account in the Branch and handed over Rs. 4000 (Rupees Four Thousand only) to Mr. Singh as an initial deposit. Mr. Singh received the amount and filled in all the papers i.e. Pay-in-slip, specimen signature card, etc. for opening of the account. He further introduced the account and presented papers before Mr. S. N. Mehrotra, Sub-Accountant for verification of signature and opening of the account. Though, Mr. Mehrotra verified the signatures on the same day yet Mr. Singh did not deposit the amount on 18-07-1983 in the bank with ulterior motive and kept the money and relevant forms for opening of the account with him and advised Mr. Vinod Kumar Singh Sengar to collect the Pass Book later on as his account will be opened next day. The above act of Mr. Singh amounts to gross misconduct in terms of para 19.5 (d) and (j) of the Bipartite Settlement.

2. On 19-07-1983 Mr. Jai Chandra Singh deposited Rs. 1000 only instead of Rs. 4000 handed over to him on 18-07-83 by Mr. Sengar, and opened the account bearing no. HSS 10894. After opening of the account and completion of Pass Book, Mr. Jai Chandra Singh tacitly altered the figure of Rs. 1000 to Rs. 4000 and delivered the Pass Book to Mr. Vinod Kumar Singh Sengar. The above act of Mr. Singh amounts to gross misconduct in terms of para 19.5 (j) and (d) of the Bipartite Settlement dated 19-10-66.

3. On 23-04-84 Mr. Singh while working on the Teller Counter withdrew Rs. 990 himself from HSS A/c No. 10984 of Shri Vinod Kumar Singh Sengar by forging signature of the a/c holder. He himself filled in the withdrawal form and made its payment without Pass Book and without obtaining any permission from the departmental incharge/Branch Manager and did not adhere to the norms for payment of withdrawal without Pass Book. The above act of Mr. Singh amounts to gross misconduct in terms of para 19.5 (d) and (j) of the Bipartite Settlement dated 19-10-66.

Shri A. P. Arora, Dy. Chief Officer, Regional Manager's Office, Lucknow, was appointed as Enquiry Officer. In the chargesheet there was also a mention of the fact that pending completion of inquiry, the workman was suspended. It appears that the previous sanction being not in order, the order of suspension was once again issued. It further appears from the memo dated 29th June, 1985 issued by Shri H. P. Minocha (Disciplinary Authority) that subsequently Shri Arora, succeeded by Shri R. V. Dubey as Enquiry Officer. The Enquiry Officer, gave his findings on 5-9-85. He held charges Nos. 1 and 3 as fully proved and charge No. 2 as not established. On 30-11-85, the Disciplinary Authority while agreeing with the findings given by the E.O. issued to the workman a show cause notice proposing punishment of dismissal from service without notice under each of the two charges proved. Thereafter, the disciplinary authority confirmed the show cause notice and dismissed the workman from service with immediate effect by means of its order dated 27-1-86. Against the order of punishment passed by



the Disciplinary Authority, the workman filed an appeal which was also dismissed by the Appellate Authority, on 13-11-86.

3. The workman has assailed the order of his punishment on a number of grounds. He alleges that he submitted his explanation of the memo issued to him regarding the alleged lapses on his part on 30-5-84, but the decision to hold disciplinary inquiry was conveyed to him by the disciplinary authority only during the chargesheet dated 26-10-84, which was improper. The inquiry was not held properly and fairly by the E.O. There was no direct witness to prove the alleged acts of misconduct on his part. The bank simply examined one witness in support of its case. The Account holder namely Shri V. K. Singh Sengar, on his whose alleged complaint he was served with a chargesheet was not examined by the bank. The E.O. while basing his findings relied upon the report of hand writing expert who was not produced to prove his said report. According to him the complaint dt. 4-5-84, was withdrawn by the complainant by his letter dt. 9-5-84. In the letter it was specifically mentioned by the complainant that he made no such complaint. Even during preliminary inquiry the A/c holder appeared before the DCO and gave another letter dt. 23rd May, 1984 stating therein that he had given only Rs. 1000 for deposit in his new Account and that he had received the pass book. He further confirmed the fact that he had withdrawn a sum of Rs. 990 from his account while he was going to Allahabad. During the Departmental inquiry the bank did not produce the correct and genuine letter of the account holder dated 23-5-84, but produced one forged copy of the A/c holder. Later on he was given the copy of genuine letter dated 23-5-84 given by the account holder. The workman further alleges that the bank's representative did not produce at the inquiry the report of the preliminary inquiry on the basis of which he was chargesheeted and suspended. As regards payments of Rs. 990 he refused that the payments were made by him to the account holder in good faith as he was known to him. The incharge of the department was duly informed by him about it.

4. The management plead that the workman was appointed as clerk on 6-3-78 and was posted as such at Bahraich Branch of the Bank on the relevant date. On 18-07-83, one Shri Vinod Kumar Singh Sengar who was known to the workman approached the said branch for opening a S/B Account with Rs. 4000. In connection with the opening of the account the workman filled in all the documents and also introduced Shri Sengar to the Bank. However, on 19-7-83, HSS Account 10894 was opened with an initial deposit of Rs. 1000 and the pay-in-slip for the same was filled in and signed by the workman himself. On 23-4-84, while the workman was working as Teller, he withdrew from the said HSS Account a sum of Rs. 990 without production of pass book forging the signatures of the account holder on the withdrawal form and passing the same himself. Thus a sum of Rs. 990 was misappropriated by the workman. On 4-5-84, the A/c holder visited the bank and made a complaint to the Branch Manager that he had given Rs. 4000 to the workman for depositing in HSS Account No. 10894 and that the pass book which was delivered to him showed the deposit of Rs. 4000 when in fact the account seemed to have been opened with an initial deposit of Rs. 1000. He also stated that in the pass book entry of Rs. 990 on 23-4-84 did not appear. He denied having made any withdrawal from his account since the opening of the account. On receipt of the complaint a preliminary investigation was made and it prima facie revealed that figure of Rs. 1000 in the pass book was altered to Rs. 4000 and the signatures of the account holder on withdrawal form of Rs. 990 were forged. In his explanation dated 31-5-84, the workman admitted that he had made the payment of Rs. 990 on the basis of withdrawal form filled in by himself. The management further plead that the decision of taking disciplinary action against the workman was taken by the management on 26-10-84, the date on which he was chargesheeted. There is no substance in the contention of the workman that the chargesheet cannot be served prepared alongwith the decision taken by the disciplinary authority. As regards the fact as to who could be the disciplinary authority and appellate authority, the management plead that any officer of the bank not lower in rank and status than the Divisional Manager (Now Regional Manager) or equivalent shall be appointed to act as Disciplinary Authority in respect of Award Staff. Similarly any officer of the bank not lower in rank than the A.G.M. or

equivalent shall be competent to act as Appellate Authority. Both Shri K. K. Sharma who issued the chargesheet and Shri H. P. Minocha were Divisional Managers (Now Regional Managers). Shri R. Shrinivasan the then Dy. General Manager of Lucknow Zone had rightly acted as Appellate Authority.

5. According to the management the inquiry was held properly and fairly and that finding of the E.O. which were confirmed by the Disciplinary Authority and the Appellate Authority are based on legal evidence. The disciplinary authority gave the workman a personal hearing before awarding punishment. Similarly the appellate authority gave him an opportunity of personal hearing but the same was not utilised by the workman. The management, therefore, prays that, if for any reason, the tribunal strikes down the Departmental Inquiry the management may be given an opportunity to prove the charges by leading evidence.

6. In his rejoinder the workman pleads that Shri Sengar the account holder did not approach him for opening the account with Rs. 4000. He contacted him only for the purposes of opening the account with Rs. 1000. He denies that the signatures of the account holder on the withdrawal form of Rs. 990 were forged. He denies that the figure of Rs. 1000 in the pass book was altered to Rs. 4000 by him.

7. In support of his case, the workman has filed his own affidavit and the affidavit of Shri Vinod Kumar Singh Sengar account holder. He has also relied upon a number of documents. On the other hand the management in support of their case filed the affidavit of Shri H. C. Jain Regional Manager, Lucknow Region and a number of documents.

8. In his written argument Shri O. P. Nigam, the authorised representative for the workman has not assailed the inquiry that the officer who conducted the inquiry i.e. E.O. and Disciplinary Authority and the Appellate authority were not competent to act as such.

9. In the instant case, the workman in order to disprove the charges of misconduct, made a bold attempt to win over the account holder in the name of friendship and intimacy and got from his mouth said that complaint on which the departmental inquiry proceeded against him was not his. But also; he could not succeed in his design. Facts are after all facts and they speak loudly about the real state of affairs.

10. The account holder was not examined by either side during the departmental inquiry. For the first time he was examined by the workman in the present case. In para 17 of his affidavit the account holder has deposed that although the workman had asked him to appear before the inquiry for giving his statement, but when it was actually held, he had gone out of station and was not available. In para 7 of his statement in his cross examination he has deposed that he had been out of station for 8-10 days. He had gone to Balrampur.

11. The fact that the workman and the account holder are friendly to each other is proved from the statement made by the account holder in his cross examination. He says that both of them are known to each other. Although he is not the resident of the village to which the workman belongs but he has his NANIHAL in the village to which the workman belongs. According to him he is perusing his studies at Bahraich by living in his NANIHAL.

12. How untruthful the account holder is and how the workman has been able to manipulate him to advance his cause, I shall presently show. In para 10 of his affidavit the account holder has deposed that on 9-5-84, when he went to the bank to meet the branch manager he came to know that some body had changed the figure of Rs. 1000 to Rs. 4000 in his pass book. In the next para he has deposed that on that day he also came to know that some body had made a complaint under his forged signatures to the branch manager regarding his account and deposit of Rs. 4000, besides the withdrawal of Rs. 990. The alleged complaint was a surprise to him and so he gave a letter to the bank refuting the complaint and in the alternative treating as can-



called. In para 15 of his affidavit he says that on 23-5-84 he went to Gorakhpur to meet Shri Dingra, the DCO. On that day also he gave a statement in writing addressed to the Regional Manager, Central Bank of India, Gorakhpur. The copies of these statements according to him are annexures I and II to his affidavit. Photostat copies of these two letters/statements have also been filed by the workman himself with his affidavit. They are annexures 3 and 4.

13. A Bare look at the signatures of the account holder appearing on his affidavit and on his statement dated 15-9-89 would show that the signatures on annexures 1 and 2 to the affidavit of the account holder under no circumstances could be that of the account holder. The two kinds of signatures, one appearing on annexures 1 and 2 and the other appearing on the affidavit and the statement of the account holder vastly differ from each other. The signatures on annexures 1, 2, 3 and 4 and also on the affidavit and the statement of the account holder appear in Hindi. The first word in the name of account holder is written as "Binod" in annexures 1, II, III and IV but in the affidavit and the statement on oath it is written as "Vinod". Then matra 'Chhoti ee' on the first two letters of the word 'Binod' much differs from the same kind of Matra appearing in the word 'Vinod' in the affidavit and in the statement on oath made before this Tribunal of the complaint. Thirdly, Matra 'ae' over the letters (Na) and matra 'ae' over the word Sengar appearing in annexures differs much from the corresponding letters appearing on these words in the signatures of the account holder appearing on his affidavit and his statement on oath. Whereas both the matras has a loop in the signatures appearing on the complaint but there is no such loop in the signatures appearing in the account holder's signatures on his affidavit and his 5 signatures appearing on his statement on oath. Further the matra 'chhoti 'oo' place below the letter 'Ka' in the word Kumar appearing in the signatures on the annexures also differ from the Matra (oo) appearing below the letter (Ka) in the signatures of the account holder on his affidavit and his signatures appearing on his statement on oath. Letter Na in the word Vinod in the signatures appearing on the annexures has a loop but no such loop appears in the letter Na in the signatures appearing on the affidavit and the statements made on oath of the account holder.

14. As already said even an ordinary man after looking at the two kind of signatures will be able to say straight away that these two kinds of signatures are not of one and the same person.

15. Therefore, it cannot be said that these letters, one dt. 9-5-84 and the other dated 23-5-84 were written by the account holder. There is every possibility of workman having manipulated these letter and out of friendship have persuaded the account holder to say that they were his letters. There is no evidence, from the side of the workman that the bank manager or any other officer of the bank was amical or hostile to him. Had there been no complaint from the side of the account holder, the bank would not have perhaps initiated the proceedings. I may make it clear that the disciplinary authority can even initiate disciplinary proceedings on an anonymous complaint if from such complaint facts leading to misconduct on the part of an official are established prima facie. Therefore, after citing the account holder as a bank witness, the presenting officer did not examine him at the inquiry it shows that he had become aware of the fact that the account holder had been won over by the workman and in case of his examination he would turn hostile. Consequently, no adverse inference can be drawn against the management if the presenting officer did not examine the complainant, as bank witness at the inquiry.

16. From the copy of the inquiry proceeding filed by the management it appears that the presenting officer examined Shri S. N. Malhotra on 1-7-85. In his examination-in-chief Shri Malhotra deposed that on 4-5-84 at 1 p.m. the account holder came to him with the pass book and withdrawal form and reported to him that the Teller had told him that there was no balance in his account. On that he asked Shri Sengar to give every thing in writing and then he would inquire into the matter. On that Shri Sengar gave a writing to him which he kept with him. To disprove that the writing alleged to have been given to Shri Malhotra was not that of the ac-

count holder the workman ought to have examined the account holder in defence. For reasons best known to him his defence representative neither examined the workman nor produced the account holder to disown the said writing. Now in this case, the workman had come with the excuse that the account holder was out of station. From the copy of proceedings dated 12-7-85 it appears that no opportunity was sought by the defence representative to produce the account holder as a defence witness. He could have sought small adjournments for the purposes of examining him as a defence witness. Even while examining the account holder in the present case no attempt was made by the workman to summon the complaint of the account holder on which the Departmental proceedings were initiated against him. It appears that if the workman knew that if the original complaint was brought before the tribunal, the tribunal might held it as written by the account holder. The signatures of the account holder could have been well tallied with his alleged signature on annexures III and IV to the affidavit of the workman.

17. Hence I find that the account holder is the pocket witness of the workman and is not at all worthy credence.

18. The second ground on which the findings had been assailed is that the enquiry officer while arriving at his findings relied upon the hand writing expert report without the hand writing expert having been examined by the management at the inquiry.

19. I have gone through the findings dt. 5-9-85 copy Ext. M-7 given by Shri R. V. Dubey E.O. It appears to me that the F.O. treated the hand writing expert report as a corroborative piece of evidence. The findings on which he was to arrive on comparison of signatures had already been arrived by me. Therefore, even if we exclude, the report of the hand writing expert, the result would remain the same. The finding is based on evidence and by no stretch of imagination it can be called as perverse. In this connection I reproduce the following lines from the findings given by the F.O. at on charge No. 3—

If we examine the MEX-2 and MEX-3, specimen signature cards and account opening form of HSS A/c No. 10894 which are duly verified and signed by the officer of the bank, we form the opinion that Shri Vinod Kumar Singh Sengar, whose signatures tally with the signatures on MEX-2 and MEX-3 is the person to be relied on. On comparing the signatures of Shri Vinod Kumar Singh Sengar, we find that the signatures on MEX-11 where Mr. Sengar he denied the receipt of payment tallies with the signatures on MEX-2 and MEX-3, while signatures on MEX 10 & MEX-15 do not tally with the signatures on MEX-2 & 3. Thus we are of the opinion that the payment of Rs. 990 on 23-4-84 was not received by Vinod Kumar Singh Sengar who is account holder of a/c No. 10894. Now who has received the payment to establish it we shall examine the MEX 7 where signature of V. K. Singh Sengar on withdrawal form withdrawing the amount and on the reverse of it for receiving the payment do not tally at all with the signatures on MEX 2 & 3 where they are Binod Kumar Singh Sengar in Hindi while on MEX 7 it is Vinod Kumar Singh Sengar. Thus the withdrawal has been passed on the basis of incomplete and improper signatures of the account holder. Further if we compare the signature of Vinod Kumar Singh MEX 7 with the title of account on MEX 6 written in the hand writing of Shri Jai Chand Singh who opened the account and ignored the words Sengar, entirely it tallies with each other. Again if we compare the signature of Vinod Kumar Singh on MEX 7 with the name written on MEX 8 as the last entry of the day by Shri Jai Chand Singh, it also tallied completely.

#### NOTE :

MX-11 is complaint dated 4-5-84, MX-10 is the letter dt. 9-5-84 of the account copy of which is annexure 1 of the affidavit of account holder and annexure 3 to the affidavit of the workman filed in the case, MX-15 is the letter dated 23-5-84 of the

account holder copies of which is annexure 2 to the affidavit of account holder and annexure 4 to the affidavit of the workman filed in the present case. MX-7 is the withdrawal form for Rs. 990 dated 23-4-84 and MX-6 is the statement of account holder.

Therefore, independantly of the hand writing expert report, the finding given by the E.O. does not call for any interference. It is just finding based on legal evidence.

20. Another point raised on behalf of the workman by Shri Nigam, authorised representative for the workman, is that the workman not informed about the date on which the decision was taken by the management to take disciplinary action against him. In this contention I find no force. In fact it has no relevance nor the point raised is of any consequence if the chargesheet was framed for the purposes of serving it on the workman. The framing of chargesheet virtually means that the decision had been taken by the management to take disciplinary proceedings against the workman. No other point of any importance has been raised by Shri Nigam.

21. It is a case where from the very beginning the workman has resorted to manipulation in order to save his skin, absolutely for getting the well known maximum that men may lie but circumstances do not. He won over the account holder and get from his mouth said a big lie as has been shown by me above. About the pass book it was said that it was himself placed by the account holder on the date on which Rs. 990 were withdrawn from his account. This defence was possibly taken in order to suppress the evidence of Rs. 1000 entered in the pass book, was not charge to Rs. 4000. A person who resorts to such manipulation deserves no mercy in the matter of award of punishment.

22. Hence while holding that the inquiry was conducted fairly and properly and that the findings arrived at in the inquiry calls for no interference, I further hold that even the punishment awarded to the workman calls for no interference.

23. The reference is answered accordingly against the workman and he is held entitled to no relief.

ARJAN DEV, Presiding Officer  
[No. L-12012/85/88-D-2(A)]

का. भा. 1840.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबन्धन के सम्बन्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 1840.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Govt. hereby publishes the award of the Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial dispute between the employers in relation to the Punjab National Bank and their workmen, which was received by the Central Govt.

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 177 of 1989

the matter of dispute :

BETWEEN

The State President,  
Punjab National Bank Employees Union  
123/28/10 Krishnagar  
Rajpur Road, Dehradun.

AND

The Regional Manager,  
Punjab National Bank,  
Saharanpur.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/49/89-D-2(A) dated 26th July, 1989, has referred the following dispute for adjudication to this Tribunal.

"Whether the action of the management of Punjab National Bank in denying payment of 113rd scale wage to Shri Srawan Kumar, Part-Time Sweeper v.e.f. 1-9-1984 instead of from 1-11-1987 is justified? If not, to what relief is the workman entitled?"

2. In the present case, after the reference order, till to-day no claim statement has been filed by the Union. In the beginning it was said that transfer of the case was being sought and then time was sought on the ground of seeking corrigendum. The first date for filing statement of claim was 1-9-1989.

3. It seems that neither the Union nor the workman is interested in the case. Hence a no claim award is given in the case.

ARJAN DEV, Presiding Officer.

[No. L-12012/49/89-D-2(A)]

का. भा. 1841.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबन्धन के सम्बन्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 1841.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Allahabad Bank and their workmen, which was received by the Central Government.

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 174 of 1988

In the matter of dispute :

BETWEEN

Shri Mishri Prasad,  
C/o. Shri Ram Prasad Tewari,  
Allahabad Bank,  
Civil Lines Allahabad

## AND

Assistant General Manager,  
Allahabad Bank,  
Zonal Office,  
Nadashar Varanasi.

## AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012|332|86-D.II(A) dated 29-11-1988, has referred the following dispute for adjudication to this Tribunal for adjudication :

"Whether the action of the management of Allahabad Bank in respect of their Chunar Branch, Distt. Mirzapur, in terminating the services of Shri Mishri Prasad is Justified. If not to what relief the workman is entitled ?

2. In the instant case the workman filed rejoinder on 27-11-1989 and thereafter the case was fixed for filing of affidavit evidence on behalf of the workman. On 5-1-1990, the workman filed certain document vide application dated 5-1-1990 with the prayer that the original of it be summoned from the management, and the said application was fixed for disposal on 15-2-1990. On 15-2-1990 the case was adjourned to 23-3-1990, and then to 25-4-1990. On 25-4-1990, Shri M. K. Verma, authorised representative of the management and workman appeared. Parties filed settlement in the case and prayed that the case be decided in terms of settlement. The settlement was duly signed and verified by the parties before the Court. The terms of settlement are :—

1. It is agreed that the applicant Shri Mishri Prasad will be absorbed with prospective date and recruited afresh as Peon-cum-Farrash on probation on initial basic pay as applicable to Sub Staff Cadre.
2. It is further agreed that the applicant concerned said Shri Mishri Prasad voluntarily relinquishes his claim of back wages, dues of past services/or any right or claim or any benefits connected with the past services under reference.
3. It is further agreed that Shri Mishri Prasad will submit Bank's printed Application Form duly completed seeking permanent employment in the Bank's services in the cadre of Peon-cum-Farrash within 10 day's time from the date of the Settlement.
4. It is further agreed that Shri Mishri Prasad will be absorbed within 30 day's time from the date of submission of duly completed Bank's Printed Application Form.
5. That this fully and finally resolves the entire dispute in reference No. 174 of 1988.

3. I, therefore, decide the reference in terms of the Settlement dated 25-4-1990.

4. Reference is answered accordingly.

ARJAN DEV, Presiding Officer.

[No. L-12012|332|86-D-2(A)]

का. प्रा. 1842 — औद्योगिक विवाद प्रावधान, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ बड़ोदा के प्रबन्धकों के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिक्रिया, कानपुर के पक्षपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 1842.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on 28-12-89.

Before Shri Arjan Dev, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Kanpur.

Industrial Dispute No. 187/1989

In the matter of dispute between

General Secretary,  
Bank of Baroda Employees Union,  
Bank of Baroda,  
Veli Bazar Branch,  
Ghantaghar, MEERUT-250001.

## AND

Regional Manager,  
Bank of Baroda,  
Govind Ganj,  
Shahjahanpur-242001.

## AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012|891|88-D.II(A) dt. 9-8-89, has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Bank of Baroda in terminating the services of Shri Ramesh Chandra is justified? If not, to what relief is the workman entitled ?

2. In the present case notices to the Union have been issued 3 times by the office of the court at the address given in the Reference Order, but no claim statement has yet been filed by the Union. The last notice was sent after withdrawal of the authority by Shri K. N. Soni, earlier authorised representative for the Union, on 17-1-90 fixing 16-2-90 for filing of the statement of claim. But since the case remained unrepresented, on 16-2-90, dispute issue of no-

tice, on account of P.O. being on tour, the case was ordered to be put up on 28-3-90. But even by 28-3-90 no claim statement was filed by the Union. It therefore, appears that the Union is not interested in presenting the case any more.

3. Therefore, in the circumstances of the case, a no claim award is given against the Union.

Sd/- 28-3-1990

ARJAN DEV, Presiding Officer

[No. L-12012/89/88-D2(A)]

का. भा. 1843.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सूचित बैंक आफ इण्डिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 1843.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Union Bank of India and their workmen, which was received by the Central Government on 3-1-1990.

BEFORE SHRI N. A. CHAUHAN, CENTRAL INDUSTRIAL TRIBUNAL, AHMEDABAD

Ref. (ITC) No. 34/89

BETWEEN

Union Bank of India,

Ahmedabad

First Party

AND

Its Workmen

Second Party

Re : Whether the action of the first party, Bank, in terminating the services of Shri Mahendrabhai Bhulabhai Sahani, is just or not, etc.

Judgement

1. The present reference, under Section 10(i)(g) of the Industrial Relations Act, 1947, which has hereinafter been referred to as the Act of 1947, forwarded to the Industrial Tribunal at Ahmedabad, for adjudication of the industrial dispute between the parties, vide order No. L-12012/488/88-D-2(A) dated 28th April 1989, by the Labour Secretariat of the Government of India, New Delhi, which is submitted to our Tribunal for disposal.

2. The industrial dispute between the parties for adjudication is such that, whether the action of the Union Bank of India, Ahmedabad, in terminating the services of Shri Mahendrabhai Bhulabhai Sahani, is just or not? And if not, then to what relief the said workman is entitled to?

3. Parties were issued notices in this reference to submit their statements of demands and written replies, but the second party workman, although served with the notice, has not submitted any statement of demands. Thereafter, in this reference, Gujarat Majdur Seva Sangh, has submitted an authorisation letter on behalf of the workman vide Exh. 7. Even thereafter, the said Sangh has been applying for time to submit the statement of demands in this reference. Ultimately, on 30-11-89 when this matter was fixed, the Sangh has not submitted any statement of demands on behalf of the second party, workman, nor has not submitted any evidence, nor was anyone present on his behalf. Therefore, there is sufficient reason to believe that the Sangh seems to have any interest in this reference; hence they did not remain present for submitting any statement or evidence. As a result, the order as under is being passed in this reference.

4. Since the Sangh has not remained present and not submitted any evidence with regard to the demand of the second party workman, the demand of the workman, is not being accepted and thus this reference is being cancelled. No order is being passed concerning the expense.

NARAN SINH CHAUHAN, Central Industrial Tribunal.

[No. L-12012/488/88-D-2(A)]

Sd/ G. J. Dave

Secretary

Ahmedabad.

Dated 13-12-1989.

का. भा. 1844.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आन्ध्रा बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 1844.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the Andhra Bank and their workmen, which was received by the Central Government.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 44 of 1986

PARTIES :

Employers in relation to the management of Andhra Bank, Calcutta.

AND

Their workman Shri Suhrud Kumar Basu.

**PRESENT :**

Mr. Justice Sukumar Chakravarty—Presiding Officer.

**APPEARANCE :**

On behalf of employer—Mr. D. K. Ghosh, Advocate.

On behalf of workman—None.

**STATE :** West Bengal **INDUSTRY :** Banking

**AWARD**

By Order No. L-12012/70/85-D.IV(A) dated 5-6-1986, the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Andhra Bank, 58, Chowringhee Road, Calcutta-700071 in terminating the services of Shri Suhrid Kumar Basu, temporary clerk with effect from 26-8-1977 is justified? If not to what relief is the workman entitled?”

2. The case as made out by the concerned workman in brief is that Shri Suhrid Kumar Basu, a commerce graduate with honours applied for appointment in a clerical cadre in the employer Bank and that after an interview he was temporarily appointed. He worked for the period from 11-1-1974 to 19-1-1974 and then again he was appointed and he worked for the period from 10-4-1974 to 8-6-1974. In this way the concerned workman worked under the employer on several occasions for specified period in 1975, 1976 and 1977. The workman lastly worked for the period from 19-8-1977 to 26-8-1977 at the Ballygunge Branch of the Bank. The concerned workman duly appeared in the test for being absorbed regularly in the employment under the Bank as a Clerk but the employer Bank did not absorb him regularly against any vacancy, although some other persons were regularly absorbed and the concerned workman was no more employed under the Bank after the termination of his service with the expiry of 26-8-1977. The employer Bank has illegally terminated the service of the concerned workman and accordingly the workman is entitled to the appropriate relief.

3. The employer Bank in their written statement has come with the contention that the concerned workman was employed under the Bank for a specified period purely on temporary basis in each year from 1974 to 1977 and that on each occasion after the expiry of the specified period for which the concerned workman was appointed, his service automatically got terminated. The concerned workman did not work for 240 days in any calendar year. It has been further contended that the concerned workman was given the opportunity to qualify himself in the test for being regularly employed under the Bank but the concerned workman could not succeed in the test. The concerned workman accordingly for the termination of his service with the end of the specified period for which he was lastly appointed temporarily, cannot claim any relief from the employer Bank. It has been further contended that the reference made in 1986 in respect of the dispute

arising out of the termination of service in 1977 is not maintainable as it is a stable one.

4. The concerned workman did not appear on 17-5-1990 in spite of the Tribunal's direction by its order dated 22-3-1990 that the matter would be taken up for ex parte hearing if the concerned workman fails to appear on the date so fixed. It further appears from the record that the concerned workman had not also appeared before the Tribunal on several occasions in the past from 7-8-1989.

5. The employer Bank has however appeared all along till the last date of hearing. Accordingly the matter was taken up for ex parte hearing on 17-5-1990 and the employer Bank has examined their witness MW-1 Mr. Shankar Prasad Ghosh, who is the Regional Manager of the employer Bank in Bhubaneswar Region. The evidence of MW-1 Mr. Ghosh shows that the concerned workman was employed temporarily as a Clerk for specified period on several occasions and that his last temporary appointment was only for the period of 8 days upto 26-8-1977. His evidence further shows that after the expiry of that period, the concerned workman was not re-employed even temporarily for any further specified period and that the concerned workman could not succeed in the test for regular employment. The evidence of MW-1 Mr. Ghosh further shows that the concerned workman never worked for 240 days in any calendar year.

6. In view of what has been stated above, I find that the concerned workman did not acquire any right what-so-ever to become a regular employee under the employer Bank. The termination of the service of a purely temporary workman who is temporarily employed for a specified period, with the expiry of the said period, cannot be termed as illegal and unjustified. Such being the position, the concerned workman who admittedly did not work for 240 days in any calendar year, cannot legally challenge the termination of his service and accordingly cannot claim any relief against the employer Bank for the termination of his such service.

7. Further the contention of the employer Bank to the effect that the reference is bad for being state has got some force. The last temporary appointment of the concerned workman was for 8 days upto 26-8-1977 and thereafter he was no more re-employed even temporarily in spite of his request to the employer Bank. The dispute accordingly arose in 1977 itself. The reference has however been made in 1986. So the contention of the employer Bank that the reference is bad for being state has got substantial force.

8. In view of what has been discussed above, the action of the management in terminating the temporary service of the concerned workman with the end of 26-7-1977 has not been unjustified and accordingly the concerned workman is not entitled to any relief.

This is my Award.  
Dated, Calcutta,  
The 21st May 1990.

[No. L-12012/79/85-D-2(A)]  
SUKUMAR CHAKRAVARTY, Presiding Officer.

का. प्रा. 1843.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यू बैंक आफ इण्डिया के प्रबन्धन के सहाय निरीक्षकों और उनके कर्मचारों के बीच, अनुष्ठान में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अति-करण कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 1845.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial dispute between the employers in relations to the New Bank of India and their workman, which was received by the Central Government.

**BEFORE SHRI ARJAN DEV PRESIDING  
OFFICER CENTRAL GOVERNMENT INDUS-  
TRIAL TRIBUNAL CUM LABOUR COURT  
PANDU NAGAR, DEOKI PALACE ROAD,**

**KANPUR**

Industrial Dispute No. 71 of 1986

In the matter of dispute between :

The Assistant General Secretary, U.P. Bank  
Employees Congress 39/193 Karvan Gali  
Alamganj Lohamandi Agra.

**AND**

The Assistant General Manager New Bank of  
India, 94, MG Marg, Lucknow.

**APPEARANCE :**

Shri V. K. Gupta & Shri S.P. Singhal (Asstt. Gen  
Secretary) for the Union/workman.

Shri Jagat Arora for the management.

**AWARD**

1. The Central Government, Ministry of Labour, vide notification no. L-12012/69/85-D.II(A) dated 3-4-1986, has referred the following dispute for adjudication to this tribunal :

**Whether the action of the management of New Bank of India in not absorbing as sub-staff Shri Vijay Kumar in Bank's service is fair just and legal ? If not to what relief the workman concerned is entitled?**

2. The industrial dispute on behalf of the workman has been raised by U.P. Bank Employees Congress (hereinafter referred to as Union).

3. The case of the Union is that the workman was appointed as peon in the Varanasi Branch of the bank against regular post of sub staff for discharging duties of regular and permanent nature. However, he was described as a temporary hand. He worked continuously at the said branch upto 28-5-83, after which his services as peon were terminated and the post held by him was filled up by another workman who was transferred from an out station branch of

the bank. After 28-5-83, the workman was again appointed as peon-cum-waterboy on daily wages which were much below the wages of the sub staff. His fresh employment on daily wages was not only unfair but also illegal as the workman worked as a full time regular peon. In view of para 20.8 of the first bipartite settlement, the workman should have been treated as a probationer and absorbed in regular service after his rendering 6 months service. The management also violated paras 522/524, 493, 507, and 516 of the Shastri Award read with Desai Award and the various bipartite settlements. The Bank also violated the provisions of sections 25F, 25G and 25H of the I.D. Act and Articles 14, 16 and 21 of the Constitution of India. The Union, has therefore, prayed that the workman be absorbed as a regular Peon w.e.f. 25-12-82 with continuity of service and all consequential benefits.

4. In defence, the management plead that as the work of the bank was badly suffering for want of an employee, the bank engaged Shri Vijai Kumar on daily wages in the capacity of contract temporary peon/casual labour for the periods—

1-1-83 to 27-1-83

29-1-83 to 13-3-83

16-3-83 to 6-4-83

8-4-83 to 2-5-83

5-5-83 to 17-5-83

19-5-83 to 28-5-83

After 28-5-83, on the request of Shri Vijai Kumar he was engaged by the branch manager, Varanasi, as Waterboy for bringing water twice or thrice in a day for drinkink purposes from old block of the building to the branch for which he was paid labour charges at the rate of Rs. 7/- per day, which was subsequently increased to Rs. 12/- per day and then to Rs. 15/- per day. He worked as such from 1-6-83 to 8-3-85. In order to win over the sympathy of the branch manager, he was ready and willing to do other work of the bank apart from his duty to bring drinking water. Thus he had never been a regular employee of the bank. The bank has a definite procedure for recruitment of peons. The bank has to get the names sponsored from the Employment Exchange and after interview by the Regional Manager, who is the Competent Authority, final selection is made. Shri Vijai Kumar fully knew that his employment was purely temporary and not against any regular post. Therefore, mere working on ad-hoc basis for about 5 months as peon did not confer any right on Shri Vijai Kumar for regularisation of his services.

5. The management also plead that the bank did not violate any provisions of any bipartite settlement, award or Costitution of India. In fact there is no industrial dispute. Consequently, the reference is bad in law. The management have also challenged the fact that Shri Vijay Kumar is a workman within the meaning of section 2(s) I.D. Act. Hence, the workman is entitled to no relief.

6. In the rejoinder no new fact been alleged by the Union except that the duties of Waterpeon are

also of a regular nature which are performed even by regular peons of the bank.

7. The Union's case in short is that the workman had worked as temporary peon in Branch Office, Varanasi, of the bank from 25-12-82 to 25-5-83 and thereafter on daily wages as a peon. On the other hand, the management's case is that the workman had worked on contract as a temporary peon/casual labour for 143 days as shown in para 12 of the written statement and thereafter on his request the branch manager engaged him as water Boy for bringing water twice or thrice in a day i.e. for drinking purposes from the old building in the branch premises for which he was paid daily labour charges at the rate of Rs. 7/- per day, which were subsequently increased to Rs. 12/- per day and then Rs. 15/- per day. In this way he worked as casual labour from 1-6-83 to 8-3-85 with small intervals. The management also set up the case that apart from doing the above job, the workman had been ready and willing to do other work of the bank also with a view to win over the sympathy of the branch manager. In para 12 of the written statement the management have given the periods during which he had worked as temporary peon/casual labour on contract (the details shown by me above in para 4 of this award). However, from the details given by the management witness Shri P. K. Jauhari in para 3 of his affidavit it appears that apart from the aforesaid period the workman had worked as a temporary peon during the following periods also—

12-10-81 to 25-10-81

21-12-82 to 23-12-82

27-12-82 to 28-12-82

It will appear that from January 1, 1983 to 28-5-83 the workman was given artificial breaks of a day or two. In the eye of law the workman would be deemed to have worked continuously as a temporary peon from 1-1-83 to 28-5-83. I may further state here that Shri P. K. Jauhari, who had been branch manager in B. O. Varanasi from September 1981 to June 1986 has stated in para 3 of his affidavit that during the above mentioned periods he had worked as a temporary peon. It falsifies the case set up by the management in the written statement that during the above periods the workman had worked on contract as a temporary peon/casual labour.

8. The main question which falls for consideration is whether after 28-5-83, the workman had simply worked as a water boy for fetching water from outside or besides taking above work, the work of peon was also taken from him by the management.

9. In compliance with the Tribunal's order dt. 22-4-88, Shri Jagat Arora, the authorised representative for the management filed 3 documents on 20-5-88, the formal proof of which was waived from the Union's side. Document No. 2 is the photocopy of the letter dt. 7-2-85, from the Branch manager to the Assistant General Manager, Regional Officer Lucknow. The signatures on this letter

appear to be that of Shri P. K. Jauhari as the signature of the manager appearing on the letter and signatures of Shri Jauhari appearing on his affidavit tally. After referring to the periods during which the workman had worked at Branch Office Varanasi as temporary peon the branch manager stated as follows—

"Since 30th May to till date he is working as water boy and we are paying him the charges of water carrier. We also add that he is performing the duties of a peon in day to day working because no substitute of two peons promoted and transferred have been provided to us."

In the letter the workman was described by the branch manager as labourious, efficient and trustworthy person. The branch manager strongly recommended his application for appointment as a peon.

10. The document no. 1 is the photocopy of the various office orders passed by the branch manager during 1985. One such order is dated 18-6-85. The order reads—

Shri Vijai Kumar will work as temporary peon as usual.

The second order dt. 7-1-85 reads as under—

Mr. Vijai Kumar is hereby advised to stitch the cash till further instructions.

All these orders bear the signatures of Shri Vijai Kumar in his cross examination the management witness Sh. Surendra Kumar Shah has deposed that stitching of currency notes can be done only by a member of the sub-staff.

11. Document No. 3 refers to 64 vouchers. From these vouchers it appears that jobs like bringing water tea cold drinks and stationery jobs, postage telegrams duplications, cyclostyle work were also taken from the workman. One of the vouchers dated 16-6-83 is with regard to payment of cycle stand charges to the workman.

12. Besides the above documents, the union has produced a certificate dt. 30-8-84, issued by Shri S D Singh, regarding Shri Vijai Kumar. The Union has got it proved from Shri S P Singhal, who has been the State President of New Bank of India Staff Association since 1980. According to Shri Singhal, Shri S D Singh had been the Accountant and had officiated as branch manager when Shri P K. Jauhari, the branch manager had gone on leave. He has denied that Shri S D Singh, was the member of U. P. Bank Employees Congress. The certificate which is dated 30-8-84 given by Shri S D Singh shows that the workman had worked for 310 days in 1983 and 243 days in 1984 as peon-cum-water boy. Although opportunity was given to the management to produce evidence, if any, in rebuttal, no document was given by the management in rebuttal. Rather it was stated by Shri Arora, authorised representative for the management on 27-6-89 that the management had

not to give any further evidence in the case. It is not improper to think no impropriety was committed by Shri S. D. Singh while issuing this certificate as the facts given by him in the certificate since full support from the documents which were filed by the management on 20-5-88, in compliance with the Tribunal's order dt. 22-4-88.

13. Thus from the above documentary evidence, it stands fully established that even after 28-5-83, besides taking from the workman the job of fetching water the branch manager also took from him the work of a peon. In other words even after 28-5-83, the workman virtually performed the duties of a peon.

14. Another point to be considered is with regard to the procedure for recruitment of temporary sub staff.

15. In para 2 of his affidavit the management witness Shri S K Shah, states that recruitment in sub staff is made by the Regional Manager concerned from amongst the candidates sponsored by Employment Exchange. In para 3 of his affidavit he states that legally branch managers are not authorised to appoint any person in their subordinate staff on regular basis. Thus Shri Shah refers to the fact that regular appointment in the sub staff can be made only by Regional Managers and not by the Branch Managers. Here the question is not of making appointment on regular basis. The question is whether or not the branch manager is competent to appoint temporary peon in the sub staff.

15A. The Union's witness Shri Kamleshwar Singh was confronted with this aspect of the matter by Shri Arora, the authorised representative for the Management in his cross examination. The witness has deposed that Deputy Regional Manager of the Regional Office Lucknow is the appointing authority for sub staff in his Region. According to him some times the Dy. Regional Managers issues instructions to the branch managers to call for the names for appointment of a regular staff in subordinate cadre from the Local Employment Exchange. Therefore, the Dy. Regional Manager, if he has time, interviews the candidates himself and if he is short of time he may direct the branch managers to interview the candidates and send to him the names of the selected candidates for information, and thereafter they issue letters of appointment to the selected candidates, without seeking approval from the Dy. Regional Manager. This again refers to the procedure of regular sub staff.

16. The management for reasons best known to them have not filed documents regarding recruitment of temporary sub staff. It is even admitted to the management in the present case, that the workman had worked as temporary peon in 1982 and 1983 for certain periods. It is not the case of the management that the workman's temporary appointment as peon was made by the Regional Manager or Dy. Regional Manager. There is no letter of appointment nor any letter of termination. In para 8 of the claim statement it is specifically stated by the Union that no letter of appointment was issued

to the workman nor he was given any letter of termination. In reply nothing has been stated specifically by the management in their written statement. It will be therefore presumed that whatever has been stated by the Union is correct. It will not therefore be unreasonable if an inference is drawn from the facts and circumstances that the workman was appointed as a temporary peon by the Branch Manager B. O. Varanasi, whether or not there is a limit with regard to the period for which such temporary appointment can be made, we do not know as there is no evidence in this regard from the management's side. All that can be said is that after 28-5-83, the branch manager B. O. Varanasi, indulged in unfair labour practice while taking from the workman the duties of a peon. He paid him meagre labour charges in the beginning at the rate of Rs. 7/- per day and thereafter, at the rate of Rs. 12/- per day and Rs. 15/- per day. In para 7 of the affidavit the management witness Shri P. K. Jauhari has deposed that the workman had been paid for the period June 1983 to August 1983 at rate of Rs. 7/- per day from Sept. 1983 to Feb. 1984 at the rate of Rs. 12/- per day and from March 1984 to July 1986 at the rate of Rs. 15 per day. It means that the workman had worked continuously till July 1986. In para 7 of his affidavit the workman has deposed that in Feb 1988 Branch Manager orally directed him not to present himself for duty in the bank but when the bank staff objected to it, on receipt of written orders from the Regional Manager's office his services were terminated from April, 1988 without notice and payment of retrenchment compensation. There has been no cross examination of the workman on this point.

17. From the above uncontroverted facts the retrenchment has no meaning being in violation of the provisions of section 25F I. D. Act. He will be deemed to be in service of the bank.

18. A person cannot be allowed to continue as a temporary hand for years together. In the instant case we find that he has been working with artificial breaks from 1-1-1983. Even though the workman was not formally appointed as a regular sub staff by Regional Manager, Deputy Regional Manager, these officers would be deemed to have impliedly consented to his continuous service in the bank as a member of sub staff as the matter was brought to the notice of AGM Regional Office, Lucknow by the Branch Manager, Varanasi, by means of his letter dt. 7-2-85 photocopy of which was filed by the authorised representative for the management along with two other documents on 20-5-88 in compliance with the Tribunal's order dt. 22-4-88.

19. Hence, it is held that the action of the management in not absorbing Shri Vijai Kumar, as sub staff in bank's service is neither fair nor just. He is entitled to be absorbed as a regular member of sub staff from the date on which the letter dated 7-2-85 (supra) came to the notice of AGM R. M. Office, Lucknow. For the sake of convenience I put the date of absorption as 1-3-85.

20. Reference is answered accordingly.

ARJAN DEV, Presiding Officer  
V. K. VENUGOPALAN, Desk Officer  
[No. L-12012/69/85-D-2(A)]